

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

IN RE: *Johnson v. United States*,) Chief Judge Thomas A. Varlan
— U.S. —, 135 S. Ct. 2551 (2015).) SO-16-02

STANDING ORDER

In *Johnson v. United States*, the Supreme Court concluded that the Armed Career Criminal Act's ("ACCA) residual clause is void for vagueness. — U.S. —, 135 S. Ct. 2551 (2015). Shortly thereafter, the Sixth Circuit issued its decision in *In re Watkins*. — F.3d —, 2015 WL 9241176 (2015). There, the petitioner requested permission to file a second or successive habeas petition under 28 U.S.C. § 2255, seeking to base her collateral attack on the ruling in *Johnson*. The Sixth Circuit determined that the petitioner made a *prima facie* showing that the challenge to her ACCA sentence was based on "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable" and granted her motion for authorization to file a second or successive § 2255 petition.

Due to the number of defendants who may be affected by *Johnson* and the potential sentencing implications for these defendants, and the need to efficiently process habeas petitions, this Court **APPOINTS** Federal Defender Services of Eastern Tennessee ("FDS") to represent any defendant who seeks relief under § 2255 in light of *Johnson*, unless the defendant has retained counsel or the previously appointed CJA attorney desires to represent the defendant. 18 U.S.C. § 3006A. FDS shall identify defendants with a claim for relief under *Johnson* and represent such defendants in seeking relief. FDS shall identify any conflicts of interest and notify the Court so new counsel may be

appointed. Any defendant who was not previously represented by FDS or a CJA attorney will need to complete an *in forma pauperis* application and file the application with the Court.

The Court **AUTHORIZES** the United States Probation Office to disclose relevant information to FDS, including Presentence Investigation Reports, Statements of Reason, and the identities of any defendants it has identified as being affected by *Johnson*. The Probation Office, FDS, and the United States Attorney's Office are encouraged to assist the Court in identifying those cases deserving of priority treatment, *i.e.*, those cases where a defendant's release date is near.

In addition, for any § 2255 motion based upon *Johnson* filed on or after the effective date of this standing order, the United States **SHALL** file a response and the response shall be filed within **thirty (30) days** of the filing of the motion.

IT IS SO ORDERED.

ENTERED BY THE COURT February 11, 2016.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE