



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF) GENERAL ORDER NO. 15-08
APPOINTMENT OF COUNSEL AND)
ACCESS TO SEALED DOCUMENTS)
IN CRIMINAL CASES POTENTIALLY)
AFFECTED BY *JOHNSON V. UNITED*)
STATES, 135 S. CT. 2551 (2015))

On June 26, 2015, the United States Supreme Court issued its decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). That decision may provide certain defendants previously sentenced in this Court with grounds to seek federal habeas relief.

Pursuant to the provisions of the Criminal Justice Act, Title 18 U.S.C. § 3006A(a)(1) and (c), and because of the need to efficiently process petitions under *Johnson*, IT IS HEREBY ORDERED that the Federal Public Defender for the Central District of California is appointed to represent any defendant who was previously determined to have been entitled to appointment of counsel, or who is now entitled to the appointment of counsel, to determine whether that defendant may qualify for federal habeas relief under either 28 U.S.C. § 2255 or 28 U.S.C. § 2241 in light of *Johnson*, and to present any petitions, motions, or applications relating thereto to the Court for disposition.

1 If the Federal Public Defender’s Office (FPDO) or previously appointed
2 counsel believes there is a conflict that would prevent the FPDO from assuming
3 appointment for an individual defendant, counsel shall bring such conflict to the
4 attention of the Court for adjudication of the issue.

5 To evaluate a defendant’s eligibility, counsel may need access to sealed case
6 records, which requires a written order of the Court. *See* L.R. 79-5.2. Rather than
7 entertain applications for such orders in each individual case, *see* L.R. 79-5.3, the
8 Court has determined that it would be more efficient to address the disclosure of all
9 such records through this General Order.

10 Accordingly, IT IS HEREBY ORDERED that the Clerk is authorized to
11 provide the United States Attorney’s Office (USAO) with copies of sealed case
12 records when:

- 13 (1) the USAO submits a written request for copies of sealed records,
14 identifying the case number(s) and defendant(s) to which the
15 request relates; and
- 16 (2) the request is made expressly pursuant to this General Order, with
17 a certification that it is being made for purposes of contemplated
18 litigation regarding a defendant’s eligibility for habeas relief
19 pursuant to *Johnson*.

20 To the extent possible, the request should be limited to documents that are
21 relevant to determining whether a defendant may qualify for habeas relief, and should
22 identify those documents by their docket numbers or by a date range within which all
23 sealed filings are requested. Because it may not always be possible to identify the
24 relevant sealed documents from the docket, however, the USAO may request all
25 sealed documents filed in such a case. Notwithstanding the foregoing, the Clerk is
26 not authorized to provide to the USAO copies of any documents filed “in camera” by
27 a defendant, or of any transcripts or minutes of proceedings held outside the presence
28 of counsel for the government.

1 Requests submitted pursuant to this General Order may be submitted UNDER
2 SEAL, and may seek records from multiple cases in one request. The USAO need
3 only provide one copy of a request to the Clerk's Office, regardless of the number of
4 cases addressed in the request. All such requests are exempted from the requirement
5 of Local Rule 79-5.1 that a Notice of Manual Filing be electronically filed, and the
6 Clerk's Office shall not file or docket a request in any case, but shall maintain all
7 such requests UNDER SEAL.

8 The United States Probation Office for the Central District of California is
9 authorized to disclose Presentence Investigation Reports and Judgments to the USAO
10 and FPDO for the purpose of determining eligibility for relief under *Johnson*.

11 The USAO and FPDO are each authorized to provide copies of any records
12 obtained pursuant to this General Order to the other for purposes of evaluating and
13 litigating any defendant's eligibility for habeas relief under *Johnson*. The USAO and
14 FPDO are also authorized to provide copies of records relating to a specific defendant
15 obtained pursuant to this General Order to that defendant's counsel of record; defense
16 counsel, in turn, is authorized to provide those records to the defendant and to any
17 successor counsel. Counsel shall not otherwise disseminate any such sealed records.
18 If the records are to be re-presented to this Court, the Ninth Circuit, or the Supreme
19 Court, they must be presented under seal.

20
21 IT IS SO ORDERED.

22 
23 _____
24 CHIEF UNITED STATES DISTRICT JUDGE

25 *Date of Approval by the Court:* October 29, 2015

26 *Date of Filing by the Clerk:* October 30, 2015
27
28