

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

IN RE: APPOINTMENT OF COUNSEL
AND ACCESS TO CONFIDENTIAL
DOCUMENTS IN CRIMINAL CASES
POTENTIALLY AFFECTED BY THE
FIRST STEP ACT OF 2018

GENERAL ORDER 350

On December 21, 2018, the President signed into law the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (2018). This legislation provides grounds for certain defendants sentenced by this Court to seek reduction of their sentences.

Pursuant to the provisions of the Criminal Justice Act, Title 18 U.S.C. § 3006A(a)(1) and (c), and in order to efficiently process motions and petitions raising potential claims for relief under the First Step Act, the Office of Federal Defender Services of Idaho, Inc., Community Defender Organization for the District of Idaho, is hereby appointed to represent any defendant previously determined to have been entitled to appointment of counsel, or who is now indigent, and who wishes to seek relief under any of the provisions of the First Step Act. In particular, the Community Defender is hereby appointed to take the following actions: 1) to determine whether that defendant may qualify for relief under the First Step Act, including but not limited to relief sought pursuant to Section 404 of the Act and claims filed for compassionate relief; and 2) to present any petitions, motions, or applications relating thereto to the Court for disposition. If, after

preliminarily screening any First Step Act case, the Community Defender identifies a prohibitive conflict that would prevent CDO representation of a client, or other good cause supports appointment of outside counsel, the CDO shall inform the judge and request appointment of counsel from the Criminal Justice Act Panel.

The U.S. Probation Office for the District of Idaho is authorized to disclose Presentence Investigation Reports, Statements of Reasons, and Judgments to the Community Defender Organization and the United States Attorney's Office (USAO) for the purpose of determining eligibility for relief under the First Step Act. The CDO shall provide the Presentence Investigation Report, Statement of Reasons, and Judgment to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Reports or Statements of Reasons shall be provided to inmates.

The Clerk's Office for the District of Idaho is authorized to disclose to the Community Defender, appointed counsel, and/or the USAO, documents from a defendant's case file that are not otherwise available through the judiciary's Public Access to Court Electronic Records ("PACER") service, to allow counsel to determine the defendant's eligibility for relief, the extent of relief, and any conflicts. Specifically, the Clerk's Office may disclose U.S.S.G. § 5K1.1 motions and orders, motions and orders related to Fed. R. Crim. P. 35, plea agreements, charging documents, notices of enhancement under 21 U.S.C. § 851, transcripts available pursuant to Judicial Conference policy, verdicts, orders related to U.S.S.G. Amendment 505, and motions under 28 U.S.C. § 2255. The Community Defender may not distribute such documents except to subsequently appointed

or retained counsel, unless otherwise ordered by the Court. Subsequently appointed or retained counsel may not further distribute such documents, unless otherwise ordered by the Court.



DATED: July 16, 2019

A handwritten signature in dark ink, appearing to read "David C. Nye", written over a horizontal line.

David C. Nye
Chief U.S. District Court Judge