

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

ORDER

The United States Sentencing Commission recently amended United States Sentencing Guidelines (“U.S.S.G.”) § 1B1.10 to address defendants who had previously received below-mandatory minimum sentences based on a government substantial assistance motion. The new U.S.S.G. § 1B1.10(c) provides that if the original sentencing judge had the authority to sentence below the mandatory minimum based upon a substantial assistance motion, then the new, retroactive guideline sentence should be calculated without regard to U.S.S.G. §§ 5G1.1 and 5G1.2.

The § 1B1.10 amendment has an effective date of November 1, 2014, with no delay in implementation as with the amendments to U.S.S.G. §§ 2D1.1 and 2D1.11 contained in Amendment 782. Because the § 1B1.10 amendment changes the law in this circuit, it is expected that a significant number of defendants may be affected.

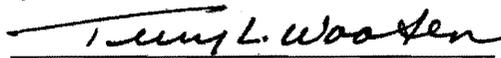
To assist with the large number of defendants who could be affected by the change, it is ordered that the Federal Public Defender’s Office for the District of South Carolina is appointed to identify and represent defendants, with their consent, to review their files and determine if the § 1B1.10 amendment applies to them.

Furthermore, the United States Probation Office for the District of South Carolina is directed to identify defendants who could be subject to the § 1B1.10 amendment. The Probation Office is authorized to disclose information, including presentence investigation reports, to the Federal Public Defenders Office and the United States Attorney’s Office.

Because some defendants affected by this amendment may potentially be eligible for

release beginning in November 2014, whereas other Amendment 782 defendants are ineligible for release prior to November 1, 2015, priority should be given to the § 1B1.10 cases where release is possible prior to November 1, 2015.

IT IS SO ORDERED.



Terry L. Wooten
Chief United States District Judge

September 25, 2014
Columbia, South Carolina