

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: APPOINTMENT OF COUNSEL FOR POST-CONVICTION CLAIMS IN
LIGHT OF *Sessions v. Dimaya*, ___ U.S. ___, 138 S. Ct. 1204 (2018)

GENERAL ORDER

IT IS ORDERED that, pursuant to the provisions of the Criminal Justice Act, Title 18, U.S.C. § 3006A(a)(1) and (c), and the discretion of the Court, the Office of the Federal Public Defender for the Eastern District of Louisiana is hereby appointed to represent any defendant who is identified as possibly qualifying for post-conviction relief under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, in light of *Sessions v. Dimaya*, ___ U.S. ___, 138 S. Ct. 1204 (2018). These persons shall include: (1) any individual who files a *pro se* motion or petition indicating that they are potentially eligible for relief under *Dimaya*; and (2) any other individual identified in the list to be requested from the United States Sentencing Commission that provides the names of those convicted or sentenced under specified statutes or other provisions potentially impacted by *Dimaya*. The Court will ensure that the Federal Public Defender is notified of all pending *pro se* motions and petitions seeking relief under *Dimaya*, as well as any new petition involving a claim under *Dimaya* that is filed by an inmate *pro se*, in order that the Federal Public Defender can assume representation in a timely fashion where appropriate.

IT IS FURTHER ORDERED that, with respect to any appointment of the Federal Public Defender arising from this order, the scope of the Federal Public Defender's appointment and representation shall be limited to evaluating, raising, re-raising, and supplementing post-conviction *Dimaya* claims. This general order does not permit appointment of the Federal Public Defender as to any other post-conviction claims previously raised by those individuals encompassed by the order, or post-conviction claims that those individuals may file in the future.

Accordingly, the Clerk of Court is **DIRECTED** to continue accepting *pro se* filings from any defendant to whom the Federal Public Defender is appointed for the purpose of reviewing and potentially pursuing a *Dimaya* claim, unless otherwise ordered by the judge to whom the case is assigned.


If at any point the Office of the Federal Public Defender concludes that a defendant does not qualify for relief under *Dimaya*, it can seek to withdraw from the representation, including after the filing of a request for post-conviction relief on behalf of the defendant. Should the Office of the Federal Public Defender determine that there is a conflict with regard to its representation of a particular defendant, a Criminal Justice Act panel attorney will be appointed as counsel.

The U.S. Probation Office for the Eastern District of Louisiana and the United States District Court Clerk's Office for the Eastern District of Louisiana are authorized to disclose Presentence Investigation Reports, Statements of Reasons, and Judgments to the Federal Public Defender's Office for the purpose of determining who may be eligible for relief under *Dimaya*. The Federal Public Defender may review these materials for the sole purpose of determining potential eligibility for relief under *Dimaya*.

IT IS FURTHER ORDERED that the "Dimaya Coordination Committee" is hereby created. The committee shall consist of the Chief Probation Officer for the Eastern District of Louisiana or his designee(s), the United States Attorney for the Eastern District of Louisiana or his designee(s), the Federal Public Defender for the Eastern District of Louisiana or his designee(s), and the Clerk of Court or his designee(s). Committee members representing the Federal Public Defender and the United States Attorney are directed to meet periodically for the purpose of discussing timelines and updates regarding pending cases in which the Federal Public Defender has enrolled, as well as cases for which the Federal Public Defender plans to file post-

conviction motions asserting *Dimaya* claims, and to discuss whether certain petitions can be resolved without further litigation. Committee members representing the Chief Probation Officer and the Clerk of Court may attend such meetings at their discretion. The role of the Clerk of Court, or his designee, shall be limited to assisting the committee in developing and implementing procedures relating to processing, management, or other procedural or administrative handling of any case raising a *Dimaya* claim.

NEW ORLEANS, LOUISIANA, this 20th day of July, 2018


NANNETTE JOLIVETTE BROWN
CHIEF JUDGE
UNITED STATES DISTRICT COURT