

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

Protocol for Determination of Possible Reduction  
of Sentences under the Amendment 782 to the  
United States Sentencing Guidelines

October 1, 2014

1. Motions seeking reduction under 18 U.S.C. § 3582(c)(2) based on Amendment 782 to the drug guidelines will be assigned to the original sentencing judge. Defendants sentenced by the late Judge Michael and by the late Judge Williams will be assigned to Judge Jones. Defendants sentenced by Judge Wilson will be assigned to Judge Urbanski. Defendants sentenced by the late Judge Turk will be assigned to Judge Conrad. A pleading filed pro se will be liberally construed in determining whether it seeks a reduction under § 3582(c)(2). The presiding judge may also determine to consider a reduction in sentence sua sponte, without a motion, as is permitted under § 3582(c)(2). The Probation Office will provide to each judge a list of potentially eligible defendants sentenced by that judge, as shown by the Probation Office's records.

2. The Probation Office will supply to the presiding judge an Addendum to the Presentence Investigation Report ("PSR") in one of the four forms attached hereto. In the event that the defendant is not eligible for sentence reduction, an order will be entered by the judge denying the motion and briefly setting forth the reasons therefor. If the defendant is eligible for sentence reduction, the judge will also be provided the following:

- a. the PSR;
- b. a copy of the original Judgment;

- c. copies of any subsequent judgments or orders reducing the defendant's sentence under Fed. R. Crim. P. 35 or 36 or otherwise; and
- d. an Addendum containing a calculation of the defendant's amended guideline range. The amended guideline range will take into account the specialized provisions unique to Amendment 782. The Addendum must also include the defendant's current projected release date prior to any reduction. The Addendum may include any further information deemed relevant by the Probation Office or requested by the judge.

3. The presiding judge may direct appointment of counsel in any case where the defendant is eligible for reduction. In the event the presiding judge contemplates granting reduction of sentence in a particular case, he may so advise the U. S. Attorney's Office and the defendant and if no objection is received within the time specified by the judge, the reduction will be granted without appointment of counsel or further proceedings. If there is objection, or otherwise in the judge's discretion, and the defendant is not currently represented by counsel, the presiding judge may advise the Federal Public Defender ("FPD"), who will determine whether the defendant is eligible for representation by the FPD. If for conflict reasons, the FPD is not available to represent the defendant, the FPD will recommend a specific CJA attorney for appointment. The Clerk's Office will obtain entry of an order appointing the FPD or a CJA panel member to represent the defendant in connection with the possible reduction in sentence.

4. The Probation Office is hereby authorized to disclose the PSR for any defendant seeking reduction, minus the PSR's confidential sentencing recommendation, to counsel for the United States and for the defendant. In accordance with Bureau of Prison policy, no PSR will be provided to inmates.

5. Any reduction will be determined on the record without a hearing, unless the judge determines that good cause for such a hearing exists. If a hearing is granted, the defendant has no right to be present, Fed. R. Crim. P. 43(b)(4), and to limit delay and for security reasons, will not be transported from prison unless exceptional circumstances exist.

6. The presiding judge may vary the process described herein in any case.

At the Direction of the Court:



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Chief United States District Judge



**2014 DRUG AMENDMENT**

**New Base Offense Level:**

**New Total Offense Level:**

**New Guideline Range:**

**Explanation:**

**Comparable Departure or Variance (if applicable):**

**Current Projected Release Date:**

**Approximate Time Already Served:**

**Other Factors or Recommendations:**

**Date Prepared:**



*crack defendants  
eligible for reduction*

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

**UNITED STATES OF AMERICA** )  
 )  
**v.** ) **CASE NO. \_:\_CR\_\_\_\_\_ - \_\_\_**  
 )  
**DEFENDANT'S FULL NAME** ) **USM #: \_\_\_\_\_**

**ADDENDUM TO THE PRESENTENCE REPORT**

The Probation Office considers this defendant to be **eligible** for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) and based on Amendment 782 of the United States Sentencing Guidelines.

Judicial Officer:

Original Sentence Date:

Original Base Offense Level:

Original Total Offense Level:

Criminal History Category:

Original Guideline Range:

Original Term of Imprisonment:

Departure or Variance: Yes \_\_\_ No \_\_\_

Reason: Substantial Assistance \_\_\_ Other \_\_\_

Explanation:

Subsequent Rule 35 Reduction: Yes \_\_\_ No \_\_\_

Reduced Term of Imprisonment: Date:

**2008 CRACK COCAINE AMENDMENT**

\_\_\_ The defendant was not eligible in 2008 for a reduction of sentence as a result of Amendments 706, 711, and 715 of the United States Sentencing Guidelines.

\_\_\_ The defendant was sentenced after the effective date of Amendments 706, 711, and 715 of the United States Sentencing Guidelines.

\_\_\_ The defendant was eligible in 2008 for a reduction of sentence as a result of Amendments 706, 711, and 715 of the United States Sentencing Guidelines, as follows:

New Base Offense Level:

New Total Offense Level:

New Guideline Range:

Reduced Term of Imprisonment:

Date:

Explanation:

**2011 CRACK COCAINE AMENDMENT**

\_\_\_ The defendant was not eligible in 2011 for a reduction of sentence as a result of Amendment 750 of the United States Sentencing Guidelines.

\_\_\_ The defendant was sentenced after the effective date of Amendment 750 of the United States Sentencing Guidelines.

\_\_\_ The defendant was eligible in 2011 for a reduction of sentence as a result of Amendment 750 of the United States Sentencing Guidelines, as follows:

New Base Offense Level:

New Total Offense Level:

New Guideline Range:

Reduced Term of Imprisonment:

Date:

Explanation:

**2014 DRUG AMENDMENT**

New Base Offense Level:

New Total Offense Level:

New Guideline Range:

Explanation:

Comparable Departure or Variance (if applicable):

Current Projected Release Date:

Approximate Time Already Served:

Other Factors or Recommendations:

Date Prepared:

*crack defendants  
ineligible for reduction*

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

UNITED STATES OF AMERICA            )  
  )  
v.    )  
  )  
DEFENDANT'S FULL NAME            )    CASE NO. \_:\_CR\_\_\_\_\_-\_\_\_\_  
  )    USM #: \_\_\_\_\_

**ADDENDUM TO THE PRESENTENCE REPORT**

The Probation Office considers this defendant to be **ineligible** for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) and based on Amendment 782 of the United States Sentencing Guidelines.

Judicial Officer:

Original Sentence Date:

Original Guideline Range:

Original Term of Imprisonment:

**2008 CRACK COCAINE AMENDMENT**

\_\_\_ The defendant was not eligible in 2008 for a reduction of sentence as a result of Amendments 706, 711, and 715 of the United States Sentencing Guidelines.

\_\_\_ The defendant was sentenced after the effective date of Amendments 706, 711, and 715 of the United States Sentencing Guidelines.

\_\_\_ The defendant was eligible in 2008 for a reduction of sentence as a result of Amendments 706, 711, and 715 of the United States Sentencing Guidelines, as follows:

New Base Offense Level:

New Total Offense Level:

New Guideline Range:

Reduced Term of Imprisonment:

Date:

Explanation:

**2011 CRACK COCAINE AMENDMENT**

The defendant was not eligible in 2011 for a reduction of sentence as a result of Amendment 750 of the United States Sentencing Guidelines.

The defendant was sentenced after the effective date of Amendment 750 of the United States Sentencing Guidelines.

The defendant was eligible in 2011 for a reduction of sentence as a result of Amendment 750 of the United States Sentencing Guidelines, as follows:

New Base Offense Level:

New Total Offense Level:

New Guideline Range:

Reduced Term of Imprisonment:

Date:

Explanation:

**2014 DRUG AMENDMENT**

Reason for Ineligibility:

Statutory minimum sentence imposed

Career offender

Armed career criminal

Other

Explanation:

Date Prepared: