

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

FILED
RICHARD W. NAGEL
CLERK OF COURT

2020 APR 23 PM 4:29

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
FED. BIV. CIV. RIGHTS

In Re:

APPOINTMENT OF SOUTHERN :
DISTRICT OF OHIO FEDERAL :
PUBLIC DEFENDER/CJA PANEL : **GENERAL ORDER 20-13**
ATTORNEYS TO REPRESENT ALL :
FEDERAL INMATES ORIGINALLY :
SENTENCED IN THIS DISTRICT :
WHO MAY BE ELIGIBLE FOR :
REDUCTION IN THEIR SENTENCES :
PURSUANT TO *UNITED STATES V.* :
DAVIS, 139 S. CT. 2319, 204 L. ED. 2D :
757 (2019). :

On June 24, 2019, the United States Supreme Court held that 18 U.S.C. § 924(c)(3)(B)'s "residual clause" definition of a violent felony under the Armed Career Criminal Act was unconstitutionally vague. *United States v. Davis*, 139 S. Ct. 2319, 204 L.Ed.2d 757 (2019). Following this ruling, on March 3, 2020, the Sixth Circuit Court of Appeals held that the *Davis* decision "established a 'new rule' because its 'result was not dictated by precedent existing at the time the defendant's conviction became final.'" *In re Franklin*, 950 F.3d 909, 910 (6th Cir. 2020) (quoting *Chaidez v. United States*, 568 U.S. 342, 347 (2013)). As such, the decision in *Davis* applies to petitioners seeking review under 28 U.S.C. § 2255.

The changes brought on by these cases may affect many defendants who have been sentenced in this district previously. The Court concludes that further screening of these defendants (now inmates) for eligibility is appropriate.

The Court in this Order appoints the Federal Public Defender to create and review the list of potential defendants who may be eligible for relief. The Defender's office will first determine whether its office has a potential or actual conflict of representation. If no conflict exists, then

the Federal Defender's office will, by this Order, represent those defendants. If, on the other hand, a conflict exists, then Criminal Justice Act counsel shall be appointed using normal Court procedure to determine the eligibility of relief, and any other representation as may be necessary.

IT IS SO ORDERED.



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: April 23, 2020