

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**AMENDED GENERAL ORDER 16-1
AS AMENDED 4/13/16**

**SUPPLEMENTAL STANDING PROCEDURAL ORDER RE:
APPOINTMENT OF COUNSEL AND MOTIONS FOR RELIEF
FROM A CONVICTION OR SENTENCE UNDER
28 U.S.C. § 2255, OR OTHER AUTHORITY, BASED ON
JOHNSON V. UNITED STATES, 135 S.Ct. 2551 (2015)**

This Standing Procedural Order supplements the Court's earlier order governing requests for appointment of counsel under the Criminal Justice Act ("CJA"), 18 U.S.C. § 3006A, and motions for relief under 28 U.S.C. § 2255, or other authority, by defendants convicted of a criminal offense in this Court whose sentences may be subject to challenge as a result of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

- 1) The Federal Public Defender and the chair of the Criminal Justice Act Board shall compile a list of attorneys, admitted to the bar of this Court, who are willing to accept appointments to represent defendants seeking habeas relief under *Johnson* and who are qualified to do so. In addition, each attorney must be either:
 - a) A current member of the CJA panel for this Court;
 - b) a current member of the CJA panel for the U.S. Court of Appeals for the First Circuit; or
 - c) have significant experience in federal habeas work.
- 2) The Federal Public Defender, after screening cases to eliminate those that do not present colorable claims, shall assign cases to lawyers on the list of eligible lawyers randomly. The Federal Public Defender is authorized to provide to the assigned lawyer any PSR previously

obtained by her office.

3) Once assigned, the lawyer selected shall file a motion seeking appointment by the Court. If the client was not previously found to be indigent, a financial affidavit shall accompany the motion.

4) If a lawyer appointed in accordance with General Order 16-1 determines that the defendant whom s/he has been appointed to represent has previously filed a petition under 28 U.S.C. § 2255 and that, therefore, a new petition raising a *Johnson* claim would be deemed a second or successive petition, the lawyer shall apply to the Court of Appeals for leave to file a second or successive petition. Any litigation in the Court of Appeals necessary to obtain the authorization required by 28 U.S.C. § 2255(h) shall be deemed to be ancillary to the district court representation. Therefore, any work expended in seeking that authorization may be included on the district court voucher

So ordered.