

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: : **STANDING ORDER NO 18-02**
:
APPOINTMENT OF COUNSEL IN :
PROCEEDINGS RELATING TO :
THE APPLICATION OF :
HUGHES v. UNITED STATES :
___ S. Ct. ___, 2018 WL 2465187 (2018) :

ORDER

WHEREAS on June 4, 2018, the United States Supreme Court decided *Hughes v. United States*, ___ S. Ct. ___, 2018 WL 2465187 (2018) and held that “in the usual case” a sentencing court’s acceptance of a binding plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and the sentence imposed pursuant to that agreement are “based on” the defendant’s Sentencing Guidelines range.

WHEREAS, with regard to motions to reduce sentences imposed after the acceptance of a binding plea agreement pursuant to Rule 11(c)(1)(C), the United States Court of Appeals for the Third Circuit had previously relied upon the concurring opinion of Justice Sotomayor in *Freeman v. United States*, 564 U.S. 522 (2011), and held that to be eligible for relief the plea agreement must identify a Guidelines range and demonstrate a sufficient link between that range and the recommended sentence which was ultimately imposed. *See United States v.*

Thompson, 682 F.3d 285 (3d Cir. 2012); *United States v. Weatherspoon*, 696 F.3d 416 (3d Cir. 2012).

WHEREAS, based on *Hughes*, defendants who were previously denied relief because their sentence was imposed pursuant to a Rule 11(c)(1)(C) plea agreement may be eligible to seek relief pursuant to 18 U.S.C. § 3582(c).

THEREFORE, IT IS ORDERED THAT, pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1), (c), and because of the need to efficiently process motions under *Hughes*, the Office of the Federal Public Defender for the Middle District of Pennsylvania is appointed to represent all criminal defendants who were previously sentenced in the Middle District of Pennsylvania who may be eligible to seek a reduced sentence under 18 U.S.C. § 3582(c) based upon the application of *Hughes*.

Financial eligibility for appointment of counsel will be presumed if the defendant was previously determined to have been entitled to appointment of counsel or found indigent by this Court. Defendants who were previously represented by private counsel, or who were determined to have sufficient assets to reimburse the Criminal Justice Act appropriation shall provide this Court with a current Financial Affidavit to determine the appropriateness of any appointment under the Criminal Justice Act. In the event the Federal Public Defender is unable to represent a defendant in such proceedings, the Federal Public Defender shall

designate an attorney in accordance with the Criminal Justice Act Plan of the United States District Court for the Middle District of Pennsylvania.

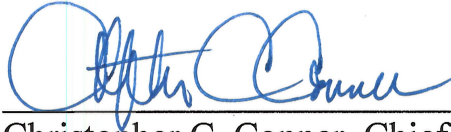
The purposes of this appointed representation are as follows:

1. To identify all persons with a claim for relief under *Hughes*.
2. To seek any sentencing relief for such persons by filing a motion under 18 U.S.C. § 3582(c) in light of *Hughes*.
3. To prioritize those persons with a claim for relief that must be acted upon immediately.
4. To maintain communications with all such persons to learn their wishes and to advise them.
5. To identify any conflict of interest that would require the withdrawal of the Federal Public Defender and the appointment of new counsel.

To give effect to the purposes of this order, the United States District Court Clerk's Office and the United States Probation Office for the Middle District of Pennsylvania are hereby authorized and directed to cooperate with the Office of the Federal Public Defender in identifying the persons who may qualify for relief pursuant to *Hughes*. The Probation and Clerk's Offices may provide the Federal Public Defender's Office with relevant sealed materials about the potentially eligible defendants. These materials include copies of Presentence Investigation Reports, modifications and addenda to such reports, Judgments, Statements of

Reasons, and motions and orders filed pursuant to Federal Rule of Criminal
Procedure 35 and Section 5K1.1.

BY THE COURT:



Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

Dated: *June 19, 2018*