

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA

Case No. _____
(Write the number of your criminal case here.)

v.

**MOTION FOR SENTENCE
REDUCTION UNDER
18 U.S.C. § 3582(c)(2)
(Amendment #821 - Criminal History)**

Write your full name here.

(Pro Se Prisoner)

Use this form to request a reduction of your sentence pursuant to 18 U.S.C. § 3582(c)(2) under the terms of Amendment 821 to the United States Sentencing Guidelines ("Amendment 821"). To receive a sentence reduction under Amendment 821, the court must make two decisions about your case, as described below.

FIRST:

The court must decide whether you are eligible for a reduction under Amendment 821. Amendment 821 has two separate parts: **Part A** (§ 4A1.1 Criminal History Category) and **Part B** (§ 4C1.1 Adjustment for Certain Zero-Point Offenders). Pages 2 and 3 of the Attachment to this form explains Parts A and B in greater detail. Please review them before completing this part of the form.

A sentence reduction is possible under either or both Parts A and B. Below, please indicate which Part(s) of Amendment 821 applies to you, and provide any information to support your eligibility.

Part A (§ 4A1.1 Criminal History Category)

When you were sentenced, did you receive criminal history points because you committed the offense "while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status"?

Yes No

If yes, please explain why you qualify for relief under **Part A**:

Part B (§ 4C1.1 Adjustment for Certain Zero-Point Offenders)

When you were sentenced, did you receive no criminal history points?

Yes No

If yes, please explain why you qualify for relief under **Part B**:

SECOND:

If the court decides you are eligible for relief under either Part A or Part B of Amendment 821, the court must then decide whether to reduce your sentence by considering the factors set forth on page 4 of the Attachment to this form. Please review that page before completing this part of the form. Please explain why the court should reduce your sentence after considering these factors. You may attach additional pages to this form as necessary.

The Court should modify my sentence according to the factors because:

I declare under penalty of perjury that the foregoing is true and correct.

Date

Signature

Name (print)	
Bureau of Prisons Register #	
Bureau of Prisons Facility	
Facility Address	



Amendment to the Sentencing Guidelines*

**April 27, 2023 and
August 31, 2023**

Effective Date
November 1, 2023

This document contains the unofficial text of an amendment to the policy statement at §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)) and is provided only for the convenience of the user. Official text of the amendment can be found on the Commission's website at www.ussc.gov and will appear in a forthcoming edition of the *Federal Register*.

*As edited and condensed by the U.S. District Court for the Southern District of Indiana

AMENDMENT 821 - Definitions of the Amendments to Parts A and B

§4A1.1. Criminal History Category

Part A of Amendment 821 limits the overall criminal history impact of “status points” (*i.e.*, the additional criminal history points given to defendants for the fact of having committed the instant offense while under a criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status) under §4A1.1 (Criminal History Category).

Under the previous “status points” provision, two criminal history points were added under §4A1.1(d) if the defendant committed the instant offense “while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.” The amendment limits the overall criminal history impact of “status points” in two ways. First, as revised, the “status points” provision under redesignated subsection (e) applies only to offenders with more serious criminal histories under the guidelines by requiring that an offender have seven or more criminal history points under subsections (a) through (d) in addition to having been under a criminal justice sentence at the time of the instant offense. Offenders with six or fewer criminal history points under subsections (a) through (d) will no longer receive “status points.” Second, the amendment also reduces from two points to one point the “status points” assessed for offenders to whom the revised provision applies.

The total points from subsections (a) through (e) determine the criminal history category in the Sentencing Table in Chapter Five, Part A.

(a) Add 3 points for each prior sentence of imprisonment exceeding one year and one month.

(b) Add 2 points for each prior sentence of imprisonment of at least sixty days not counted in (a).

(c) Add 1 point for each prior sentence not counted in (a) or (b), up to a total of 4 points for this subsection.

~~(d) Add 2 points if the defendant committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.~~

~~(e)~~ Add 1 point for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under (a), (b), or (c) above because such sentence was treated as a single sentence, up to a total of 3 points for this subsection.

(e) Add 1 point if the defendant (1) receives 7 or more points under subsections (a) through (d), and (2) committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.

§4C1.1. Adjustment for Certain Zero-Point Offenders

Part B, Subpart 1 of Amendment 821 creates a new Chapter Four guideline at §4C1.1 (Adjustment for Certain Zero-Point Offenders) providing a decrease of two levels from the offense level determined under Chapters Two and Three for defendants who did not receive any criminal history points under Chapter Four, Part A and whose instant offense did not involve specified aggravating factors.

(a) ADJUSTMENT.—If the defendant meets all of the following criteria:

- (1) the defendant did not receive any criminal history points from Chapter Four, Part A;
- (2) the defendant did not receive an adjustment under §3A1.4 (Terrorism);
- (3) the defendant did not use violence or credible threats of violence in connection with the offense;
- (4) the offense did not result in death or serious bodily injury;
- (5) the instant offense of conviction is not a sex offense;
- (6) the defendant did not personally cause substantial financial hardship;
- (7) the defendant did not possess, receive, purchase, transport, transfer, sell, or otherwise dispose of a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;
- (8) the instant offense of conviction is not covered by §2H1.1 (Offenses Involving Individual Rights);
- (9) the defendant did not receive an adjustment under §3A1.1 (Hate Crime Motivation or Vulnerable Victim) or §3A1.5 (Serious Human Rights Offense); and
- (10) the defendant did not receive an adjustment under §3B1.1 (Aggravating Role) and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848;

decrease the offense level determined under Chapters Two and Three by 2 levels.

AMENDMENT 821 - Factors the Court will consider to decide your motion

A. In General.—Consistent with 18 U.S.C. § 3582(c)(2), the court shall consider the factors set forth in 18 U.S.C. § 3553(a) in determining: (I) whether a reduction in the defendant’s term of imprisonment is warranted; and (II) the extent of such reduction, but only within the limits described in subsection (b).

Under 18 U.S.C. § 3553(a), factors the court shall consider in imposing a sentence include, but are not limited to:

- (1) the nature and circumstance of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

B. Public Safety Consideration.—The court shall consider the nature and seriousness of the danger to any person or the community that may be posed by a reduction in the defendant’s term of imprisonment in determining:

- (I) whether such a reduction is warranted; and
- (II) the extent of such reduction, but only within the limits described in subsection (b).

C. Post-Sentencing Conduct.—The court may consider post-sentencing conduct of the defendant that occurred after imposition of the term of imprisonment in determining:

- (I) whether a reduction in the defendant’s term of imprisonment is warranted; and
- (II) the extent of such reduction, but only within the limits described in subsection (b).