

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

No. 99-10110-02-JTM

TUAN M. PHAM,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant Tuan Pham's second or successive petition under 28 U.S.C. § 2255, which seeks to vacate his 18 U.S.C. § 924(c) conviction on the grounds that the § 924(c) offense required proof of an underlying crime of violence, and (according to the defendant) Hobbs Act robbery (18 U.S.C. § 1951) is not such a crime. The court stayed (Dkt. 134) consideration of defendant's motion pending the ultimate resolution of the issue by the Supreme Court in *Stokeling v. United States*, 139 S. Ct. 544, 553 (2019). The Court in *Stokeling* resolved this issue adversely to the defendant.

In light of that decision, the court hereby withdraws the stay. The court is without jurisdiction to entertain defendant's successive § 2255 Motion to Vacate, which is hereby dismissed.

IT IS ACCORDINGLY ORDERED this day of July, 2019, that the defendant-petitioner's Motion to Vacate (Dkt. 132) is hereby dismissed.

s/ J. Thomas Marten
J. Thomas Marten, Judge