

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No. 04-10081-01-JTM

CARL J. HARRIS,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant Carl Harris's Motion to Vacate Sentence (Dkt. 58), arguing that his sentence was excessive in light of *Johnson v. United States*, 135 S.Ct. 2551 (2015), and for Appointment of Counsel (Dkt. 61). The government has responded by requesting a stay of the action, pending the Supreme Court's resolution of the appeal in *Beckles v. United States*, Docket No. 15-8544 (June 27, 2016), which will likely resolve the question of whether the reasoning of Johnson applies to the Sentencing Guidelines.

The defendant argues that a stay should not be granted in light of the Tenth Circuit's decision in *United States v. Madrid*, 805 F.3d 1204 (10th Cir. 2015). However, that court has itself stayed further proceedings in a case raising the same issue, *United States v. Rollins*, No.

15-1459 (10th Cir. July 5, 2015), and the court finds that this result is warranted in the present action as well.

IT IS ACCORDINGLY ORDERED this 2nd day of November, 2016, that for good cause shown, the action is hereby stayed, as provided herein.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE