

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

United States of America,

Plaintiff,

v.

**Case No. 06-20154-JWL
16-2384-JWL**

Sacha Graham,

Defendant.

MEMORANDUM & ORDER

In December 2006, defendant Sacha Graham pled guilty to the offense of being a felon in possession of firearms and ammunition in violation of 18 U.S.C. § 922(g)(1). The Presentence Investigation Report (PSR) determined that Mr. Graham was eligible for sentencing under the Armed Career Criminal Act (ACCA), which authorizes an enhanced penalty for a person who violates § 922(g) and has three previous convictions for crimes that meet the definition of a “violent felony.” *See* 18 U.S.C. § 924(e). At sentencing, the court imposed the ACCA’s mandatory minimum 15-year sentence. This matter is now before the court on Mr. Graham’s motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (doc. 22).

In support of his motion, Mr. Graham contends that, in light of *Johnson v. United States*, ___ U.S. ___, 135 S. Ct. 2551 (2015) and *Welch v. United States*, 136 S. Ct. 1257 (2016), his underlying state burglary convictions no longer qualify as violent felonies for purposes of the ACCA and the court must vacate his sentence. The court has been advised that the government does not oppose the motion and that the government agrees that, in light of *Johnson*, Mr. Graham’s burglary convictions no longer qualify as predicate felonies under the ACCA. The

parties have notified the court that they further agree that Mr. Graham should be resentenced to time served and that his conditions of supervised release should be modified to include placement at a halfway house for a term of up to six (6) months, at the discretion of the United States Probation Office—a modification that the court finds appropriate. Mr. Graham's motion to vacate, then, is granted as unopposed. The court will resentence Mr. Graham to time served and will modify Mr. Graham's conditions of supervised release to include placement at a halfway house for a term of up to six (6) months, at the discretion of the United States Probation Office. All other provisions of the judgment dated April 30, 2007 shall remain in effect.

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Graham's motion to vacate, set aside or correct his sentence (doc. 22) is **granted as unopposed and Mr. Graham's sentence is reduced to time served.** The court hereby **modifies** Mr. Graham's conditions of supervised release to include placement at a halfway house for a term of up to six (6) months, at the discretion of the United States Probation Office. All other provisions of the judgment dated April 30, 2007 shall remain in effect.

IT IS SO ORDERED.

Dated this 14th day of July, 2016, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge