

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

United States of America,

Plaintiff,

v.

Case No. 07-20168-22-JWL

Keith McDaniel,

Defendant.

MEMORANDUM & ORDER

This matter is before the court on Keith McDaniel's motion for "sentence relief" pursuant to *United States v. Holloway*, 68 F. Supp. 3d 310 (E.D.N.Y. 2014), in which Judge John Gleeson recognized the excessive nature of the defendant's mandatory minimum sentence of fifty-seven years for three convictions under 18 U.S.C. § 924(c) and called on the U.S. Attorney's Office to agree to an order vacating two of the defendant's three § 924(c) convictions so that the defendant could face a "more just resentencing." *Id.* at 314. The United States Attorney's Office ultimately agreed to the court's vacatur of two of the § 924(c) convictions and the court proceeded to resentence the defendant on the remaining § 924(c) count. *Id.* at 311. To the extent relief is available under the *Holloway* case (an out-of-Circuit district court case carrying no precedential weight in this court), it undisputedly requires the consent of the government. *See United States v. Marin-Moreno*, 2016 WL 901666, at *2 (E.D.N.Y. Mar. 9, 2016) (*Holloway* relief "can properly be granted only as frequently as the government chooses to consent to it."). Before ruling on the motion, then, the court must ascertain the position of the government on the merits of the motion.

IT IS THEREFORE ORDERED BY THE COURT THAT the government shall file a response to Mr. McDaniel's motion on or before **Thursday, June 15, 2017** and Mr. McDaniel may file a reply to that response on or before **Thursday, July 13, 2017**.

IT IS SO ORDERED.

Dated this 18th day of May, 2017, at Kansas City, Kansas.

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