

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

No. 12-10089-02-JTM

PEDRO GARCIA,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on Defendant Pedro Garcia's post-conviction motion arguing that his conviction has possessing and brandishing a firearm in furtherance of a crime of violence (18 U.S.C. § 924(c), Count 9) – specifically aggravated robbery in violation of K.S.A. 21-5402(b)(1) – is untenable in light of *United States v. Bong*, 913 F.3d 1252, 1259-60 (10th Cir. 2019). The government concedes that that under existing authority, the Count 9 conviction is invalid and must be vacated. (Dkt. 1382, at 8). The court hereby grants defendant's motion and vacates his conviction under Count 9, and will enter an Amended Judgment reflecting defendant's new sentence.

IT IS SO ORDERED this day of August, 2020.

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