

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

No. 12-10154-02-JTM

PAUL SIFUENTEZ,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant Paul Sifuentez's 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 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. Following that decision, counsel for the defendant acknowledged the ruling, and stated that he had sent a stipulation of dismissal form to the defendant. Counsel further "acknowledge[d] that if petitioner's form is not received in 30 days, dismissal without a stipulation is appropriate." (Dkt. 90, at 2). Such stipulation should have been submitted by February 23, 2019.

No voluntary dismissal by stipulation has been submitted. Accordingly, in light of Stokeling, the court hereby dismisses defendant's Motion to Vacate.

IT IS ACCORDINGLY ORDERED this day of July, 2019, that the defendant-petitioner's Motion to Vacate (Dkt. 83) is hereby dismissed.

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