

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TARON ALONZO HUGGINS,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

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Case No. 5:13-cr-40015-JAR-1

AGREED ORDER GRANTING MOTION TO VACATE

On November 9, 2015, the parties filed a Joint Motion to Vacate, pursuant to 28 U.S.C. § 2255, in light of the Supreme Court's recent decision in *Johnson v. United States*, 535 S.Ct. 2251 (2015). The parties ask that this Court vacate Mr. Huggins's sentence in Case No. 5:13-cr-40015-JAR-1 because he was incorrectly sentenced as an Armed Career Criminal. The underlying offense conduct involved the possession of a firearm by an Armed Career Criminal, in violation of 18 U.S.C. § 922(g)(1) & (e)(1). In light of *Johnson*, which struck down the Armed Career Criminal Act's residual clause as unconstitutionally vague, the parties assert that Mr. Huggins is not an Armed Career Criminal. under 18 U.S.C. § 924(e)(1), and instead should have been sentenced under 18 U.S.C. § 924(a)(2). The government has waived any potential procedural hurdles to relief.

Here, in light of the Supreme Court's decision in *Johnson*, Mr. Huggins did not have the three requisite prior violent felony convictions at the time he possessed the firearm in this case in order to enhance his sentence under § 924(e). This is so because his 2008 Kansas conviction for fleeing and eluding only qualified as a violent felony under the Armed Career Criminal Act's residual clause. Because Mr. Huggins is not an Armed Career Criminal, he is entitled to relief under §2255. The sentence imposed in Case No. 5:13-cr-40015-JAR-1 must be vacated, and Mr. Huggins must be resentenced.

This Court thus VACATES the sentence in Case No. 5:13-cr-40015-JAR-1, and a resentencing hearing will be scheduled shortly.

IT IS SO ORDERED.

Dated this 12th day of November, 2015, at Kansas City, Kansas.

s/ Julie A. Robinson
HON. JULIE A. ROBINSON
United States District Judge

Prepared by FPD/Approved by USAO