

United States Court of Appeals
For the Eighth Circuit

No. 16-2187

Jeremy M. Deperalta,

Petitioner - Appellant,

v.

United States of America,

Respondent - Appellee.

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: November 20, 2017

Filed: November 30, 2017

[Unpublished]

Before WOLLMAN, LOKEN, and COLLOTON, Circuit Judges.

PER CURIAM.

Jeremy Deperalta appeals following the district court's¹ order denying his 28 U.S.C. § 2255 motion. Deperalta claimed that his 63-month prison term, which was

¹The Honorable Dean Whipple, United States District Judge for the Western District of Missouri.

imposed pursuant to the advisory Sentencing Guidelines after he pleaded guilty to being a felon in possession of a firearm, was unconstitutional in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551, 2557-58 (2015), invalidating as unconstitutionally vague a provision of the Armed Career Criminal Act known as the "residual clause." After the district court denied Deperalta's motion, the Supreme Court issued *Beckles v. United States*, 137 S. Ct. 886, 890 (2017), holding that advisory Guidelines are not subject to constitutional vagueness challenges under Due Process Clause. The judgment of the district court is thus affirmed, and counsel's motion to withdraw is granted.
