

United States Court of Appeals
For the Eighth Circuit

No. 17-1856

Earl Jackson

Plaintiff - Appellant

v.

C. V. Rivera, (originally named as USA)

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Helena

Submitted: October 4, 2017

Filed: October 31, 2017

[Unpublished]

Before SMITH, Chief Judge, ARNOLD and BENTON, Circuit Judges.

PER CURIAM.

Federal prisoner Earl Jackson appeals the district court's dismissal of his 28 U.S.C. § 2241 petition challenging his sentence, which was enhanced under 18 U.S.C. § 924(e) (Armed Career Criminal Act (ACCA)), based on Johnson v. United States, 135 S. Ct. 2551, 2557 (2015). The district court denied the petition as a successive and unauthorized 28 U.S.C. § 2255 motion. We construe Jackson's notice

of appeal as a request for authorization to file a successive section 2255 motion, and grant the request, as Jackson has made a prima facie showing that he no longer has three qualifying convictions to support an ACCA sentence. See *Menteer v. United States*, 806 F.3d 1156, 1156 (8th Cir. 2015) (this court may grant authorization only if applicant makes prima facie showing that he has met requirements of § 2255(h)); *Woods v. United States*, 805 F.3d 1152, 1153-54 (8th Cir. 2015) (per curiam) (prima facie showing is sufficient showing of possible merit to warrant further exploration by district court). While we express no views on whether any section 2255 motion filed by Jackson in the district court is timely filed or has merit, we note that he protectively filed a timely section 2255 motion raising claims based on Johnson in the District Court for the Western District of Missouri on June 26, 2016.
