

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6697

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEQUANTEY MAURICE WILLIAMS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:12-cr-00110-CCE-1; 1:14-cv-00832-CCE-LPA)

Submitted: August 31, 2016

Decided: September 8, 2016

Before GREGORY, Chief Judge, and WILKINSON and KING, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Dequantey Maurice Williams, Appellant Pro Se. Lisa Blue Boggs, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dequantey Maurice Williams noted this appeal from the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion. We granted a certificate of appealability on the issue of whether Williams was properly sentenced as an armed career criminal, 18 U.S.C. § 924(e) (2012).

After the district court entered its order, the Supreme Court held in Johnson v. United States, 135 S. Ct. 2551 (2015), that the residual clause of the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(b) (2012), is unconstitutionally vague. Additionally, we held that North Carolina common law robbery "does not qualify categorically as a 'violent felony' under [§ 924(e)(2)(B)]." United States v. Gardner, 823 F.3d 793, 804 (4th Cir. 2016). Based on Johnson and Gardner, the Government has conceded that Williams would not be subject to the 15-year mandatory minimum sentence under § 924(e) if he were sentenced today. Accordingly, we vacate the district court's order denying Williams' § 2255 motion and remand this case for further proceedings. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED