

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

---

**No. 17-7031**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TONY LLOYD JOHNSTON,

Defendant - Appellant.

---

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, Senior District Judge. (3:08-cr-00042-NKM-RSB-1; 3:16-cv-81156-NKM-RSB)

---

Submitted: September 10, 2018

Decided: October 11, 2018

---

Before GREGORY, Chief Judge, WYNN and THACKER, Circuit Judges.

---

Vacated and remanded by unpublished per curiam opinion.

---

Lisa M. Lorish, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charlottesville, Virginia, for Appellant. Jennifer R. Bockhorst, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Abingdon, Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tony Lloyd Johnston seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2012) motion challenging his sentence as an armed career criminal based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). We previously placed the appeal in abeyance for *United States v. Hodge*, \_\_ F.3d \_\_, 2018 WL 3999898 (4th Cir. Aug. 22, 2018). Johnston now moves to remand his case for further proceedings in accordance with *Hodge*, and the Government agrees that it is appropriate to vacate the district court's order and remand the case for reconsideration of the § 2255 motion in light of *Hodge*. In light of our decision in *Hodge*, we grant a certificate of appealability, grant the motion to remand, vacate the district court's order, and remand for reconsideration of the § 2255 motion in light of *Hodge*. We deny Johnston's motion to expedite as moot. 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*