

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

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Case Nos. 14-3956/3964

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

FILED
Jul 20, 2015
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
DESEAN R. HARBIN,)
)
Defendant-Appellant.)
)
)
)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
OHIO

ORDER

Before: SILER, COOK, and WHITE, Circuit Judges.

PER CURIAM. At Desean Harbin’s sentencing, the district court applied the career offender enhancement, USSG § 4B1.1. The issue before this court is whether Harbin’s prior burglary conviction constitutes a “crime of violence” under the residual clause of the career offender enhancement, USSG § 4B1.2(a)(2). In *Johnson v. United States*, No. 13-7120, 2015 WL 2473450, at *4–5 (U.S. June 26, 2015), the Supreme Court held that the identically worded residual clause of the Armed Career Criminal Act (ACCA) is void for vagueness. Compare USSG § 4B1.2(a)(2), with 18 U.S.C. § 924(e)(2)(B)(ii). We have interpreted both residual clauses identically. See *United States v. Ford*, 560 F.3d 420, 421 (6th Cir. 2009); *United States v. Houston*, 187 F.3d 593, 594–95 (6th Cir. 1999). Following *Johnson*, the Supreme Court has vacated the sentences of offenders who were sentenced under the residual clause of the Sentencing Guidelines. See *United States v. Maldonado*, 581 F. App’x 19, 22–23 (2d Cir. 2014),

Case Nos. 14-3956/3964, *United States v. Harbin*

vacated, No. 14-7445, 2015 WL 2473524, at *1 (U.S. June 30, 2015); *Beckles v. United States*, 579 F. App'x 833, 833–34 (11th Cir. 2014), *vacated*, No. 14-7390, 2015 WL 2473527, at *1 (U.S. June 30, 2015); *see also* *Wynn v. United States*, No 14-9634, 2015 WL 2095652, at *1 (U.S. June 30, 2015) (vacating a Sixth Circuit order, which denied habeas relief based on a predicate offense qualifying under the residual clause of the career offender enhancement). Accordingly, Harbin is entitled to the same relief as offenders sentenced under the residual clause of the ACCA. *See United States v. Darden*, No. 14-5537 (6th Cir. Jul. 6, 2015) (*per curiam*).

For these reasons, we vacate the judgment of the district court and remand for reconsideration in light of *Johnson*.