

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

BOBBY JOE SALES,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	2:16cv337-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

Pursuant to 28 U.S.C. § 2255, petitioner Bobby Joe Sales, a federal prisoner, filed this lawsuit seeking habeas relief. Specifically, he seeks to vacate, set aside, or correct the sentence imposed upon him pursuant to 18 U.S.C. § 924(e)(1) of the Armed Career Criminal Act (ACCA).

Sales was convicted of two counts of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). He was then sentenced to 192 months of imprisonment pursuant to § 924(e)(1) based in part on a

prior conviction for third-degree burglary and a prior conviction for illegal sale of drugs.

Sales contends that he is entitled to habeas relief based on the Supreme Court's decisions in Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551 (2015), that the residual clause of § 924(e) is unconstitutionally vague, and Welch v. United States, ___ U.S. ___, 136 S. Ct. 1257 (2016), that the Johnson decision is retroactive on collateral review. The government, in contrast, takes the position that petitioner is entitled to relief under Descamps v. United States, 133 S. Ct. 2276 (2013). In any case, the court need not resolve this issue because both parties agree that his petition for habeas relief should be granted.

Accordingly, the court will grant his petition, vacate his sentence, and resentence him.

An appropriate judgment will be entered.

DONE, this the 19th day of August, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE