

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

GARY LAVON COOPER,	)	
	)	
Petitioner,	)	
	)	CIVIL ACTION NO.
v.	)	2:16cv469-MHT
	)	(WO)
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

OPINION

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

Cooper was convicted of one count of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). He was then sentenced to 140 months' imprisonment pursuant to § 924(e)(1), based on three prior convictions for third-degree burglary.

The parties agree that Cooper is entitled to relief under Johnson and Welch. See Joint Proposal for Proceeding On § 2255 Motion (doc. no. 3).

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

An appropriate judgment will be entered.

DONE, this the 12th day of July, 2016.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE