

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

PAYTON LEE SYKES,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	2:16cv473-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

Pursuant to 28 U.S.C. § 2255, petitioner Payton Lee Sykes, 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.

Sykes 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 180 months of imprisonment pursuant to § 924(e)(1) based in part on prior convictions for third-degree burglary.

The parties agree that Sykes is entitled to relief under Johnson and Welch. See Joint Proposal for Proceeding On § 2255 Motion (doc. no. 7).

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

An appropriate judgment will be entered.

DONE, this the 15th day of July, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE