

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

ADRIAN MOULTRY,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	2:16cv481-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

Pursuant to 28 U.S.C. § 2255, petitioner Adrian Moultry, 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.

Moultry was convicted of one count of possession with intent to distribute, or distribution of, a controlled substance in violation of 21 U.S.C. § 841(a)(1) & (b)(1)(B), one count of possession of a firearm in relation to drug trafficking in violation of 18 U.S.C. § 924(c)(1)(A), and 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 192 months' imprisonment pursuant to § 924(e)(1) based on prior convictions for third-degree burglary.

The parties agree that Johnson is entitled to relief under Johnson and Welch. See Joint Proposal for Proceeding On § 2255 Motion (doc. no. 4).

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

An appropriate judgment will be entered.

DONE, this the 11th day of July, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE