

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GEORGE VANCE THOMPSON, III ,

Petitioner,

v.

Case No.: 2:18-cv-608-FtM-38NPM

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER¹

Pending before the Court is Petitioner George Vance Thompson III's Motion Under [28 U.S.C. § 2255](#) to Vacate, Set Aside or Correct Sentence ([Doc. 1](#), "Motion") filed on September 10, 2018. Petitioner requests the Court to vacate his enhanced sentence for Count Three of his plea-based conviction, Possession of a Firearm in Furtherance of a Drug Trafficking Crime in violation of [18 U.S.C. § 924\(c\)\(1\)\(A\)\(i\)](#), claiming the "in furtherance" language contained in § 924(c)(1) is unconstitutional. The United States filed a Response in Opposition seeking dismissal of the Motion as untimely ([Doc. 7](#)), to which Thompson filed a Reply ([Doc. 10](#)).

While his Motion was pending, the Supreme Court decided *United States v. Davis*, in which it held that § 924(c)(3)'s residual clause is unconstitutionally vague. [___ U.S.](#)

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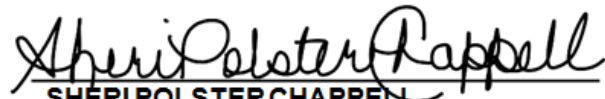
___, ___ 139 S. Ct. 2319, 2323, 2336, ___ L.Ed.2d ___ (2019). The Eleventh Circuit in a published order held that Davis announced “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable,” 28 U.S.C. § 2255(h)(2). In re Hammoud, ___ F.3d ___, No. 19-12458, 2019 WL 3296800, slip op. at 4-8 (11th Cir. July 23, 2019).

Accordingly, it is now

ORDERED:

1. **Petitioner** shall file either a supplement to his pending Motion or file a free-standing amended § 2255 motion **within thirty (30) days** of the date of this Order.
2. **Respondent** shall file a response to the supplement or amended § 2255 motion **within thirty (30) days thereafter**.

DONE and **ORDERED** in Fort Myers, Florida this 18th day of August, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1
Copies: All Parties of Record