

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JA'QUAD DOMINQUE MCDUFFIE,

Petitioner,

v.

CASE NO. 6:16-cv-1038-Orl-31DCI  
(6:11-cr-402-Orl-31DCI)

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

This cause is before the Court on Petitioner's Notice of Decision and Unopposed Motion to Continue Stay (Doc. 18). On February 9, 2017, the Court entered an Order staying the instant proceedings pending the Eleventh Circuit Court of Appeals' decision in *McKinley v. United States*, No. 16-16188 (granting a certificate of appealability on the issue of whether *Johnson v. United States*, 135 S. Ct. 2551 (2015) extends to residual clause of 18 U.S.C. § 924(c)) (Doc. 17).

Petitioner notes that a decision has been rendered in *McKinley* (Doc. 18 at 1). See *McKinley v. United States*, No. 16-16188, 2017 WL 4511360 (11th Cir. Oct. 10, 2017). However, Petitioner asks the Court to continue the stay in light of *Ovalles v. United States*, 861 F.3d 1257 (11th Cir. 2017) (Doc. 18 at 2).

The *Ovalles* court held that the reasoning of *Johnson* does not apply to residual clause of § 924(c). 861 F.3d at 1259. However, the Eleventh Circuit withheld the mandate,

and the appellant has moved for rehearing *en banc*. A decision to rehear *Ovalles* may be dispositive to the issues presented in this case. Therefore, the procedural posture of the case and the interests of justice warrant continuing the stay of these proceedings pending issuance of the mandate in *Ovalles*.

Accordingly, it is **ORDERED** that the Unopposed Motion to Continue Stay (Doc. 18) is **GRANTED**. The stay of this case shall continue pending the Eleventh Circuit's issuance of the mandate in *Ovalles*. Petitioner shall either file a motion to reopen this case or otherwise notify the Court within **FIFTEEN (15) DAYS** from issuance of a decision in these cases.

**DONE AND ORDERED** in Orlando, Florida, this 18th day of October, 2017.



  
GREGORY A. PRESNELL  
UNITED STATES DISTRICT JUDGE

Copies to:  
OrIP-3 10/18  
Counsel of Record