

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

PAUL BERNALL,
BOP Register Number: 50714-018,

Petitioner,

v.

Case No. 8:16-cv-1708-T-24 TGW
8:09-cr-258-T-24-TGW

UNITED STATES OF AMERICA,

Respondent.

ORDER

This cause comes before the Court upon the filing of a Joint Stipulation between the United States and Defendant Paul Bernall regarding Section 2255 Motion (Doc. CV-22) filed November 23, 2016. The parties agree that in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), Defendant's § 2255 motion should be granted. Defendant was sentenced under the Armed Career Criminal Act ("ACCA"), and he no longer qualifies for the ACCA enhancement. Specifically, the parties agree that his two prior convictions for burglary and throwing a deadly missile at or into an occupied vehicle no longer qualify as ACCA predicate offenses.

Accordingly, it is ORDERED AND ADJUDGED that:

- (1) Defendant's 28 U.S.C. § 2255 motion to vacate (Doc. CV-1, CR-123) is granted.
- (2) Defendant is re-sentenced *in absentia* to a sentence of 240 months' imprisonment on count one, 120 months' imprisonment on count three to run concurrently with count one, and 60 months' imprisonment on count two to run consecutive to counts one and three, for a total of 300 months' imprisonment, to be followed by 120 months' supervised release on count one, 60 months' supervised release on count two, and 36 months' supervised release on count three, all to run

concurrently. Additionally, the Court imposes the same terms and conditions that were imposed in the Judgment entered on January 19, 2010 (Doc. CR-78).

- (3) The Clerk is directed to enter an Amended Judgment in the criminal case.
- (4) The Clerk is directed to enter judgment in favor of Bernall in the civil case and then to close the civil case.

DONE AND ORDERED at Tampa, Florida, this 6th day of December, 2016.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
All Parties and Counsel of Record