

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WALTER HOWARD MULFORD,
BOP Register Number: 16151-018,

Petitioner,

v.

Case No. 8:16-cv-2238-T-24 AAS
8:92-cr-192-T-24 AAS

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 Walter Mulford regarding Section 2255 Motion (Doc. CV-17; CR-9) filed on December 22, 2016. The parties agree that in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), Defendant's § 2255 motion should be granted to the extent that he asserts an ACCA claim and dismissed without prejudice as to the other two claims. The parties agree that Defendant was sentenced under the Armed Career Criminal Act ("ACCA"), and he no longer qualifies for the ACCA enhancement. The parties further agree that a total sentence of 322 months of imprisonment is sufficient but not greater than necessary. Finally, if the Court enters an order consistent with the stipulation, Mulford does not request a resentencing hearing and waives his right to be present at resentencing.

Accordingly, it is ORDERED AND ADJUDGED that:

- (1) Defendant's 28 U.S.C. § 2255 motion to vacate (Doc. CV-1, CR-6) is granted to the extent of Defendant's ACCA claim (claim one). The Court dismisses without prejudice the other two claims raised therein (claims two and three).
- (2) The Court denies as moot the Government's motion to dismiss (Doc. CV-12).

- (3) Defendant is re-sentenced *in absentia* to 60 months of imprisonment on count 1, 262 months of imprisonment on count 2, and 120 months of imprisonment on count 4, with counts 1, 2, and 4 to run concurrently, and 60 months of imprisonment on count 3, to run consecutive to counts 1, 2, and 4 for a total sentence of 322 months of imprisonment. His sentence will be followed by 36 months of supervised release on all counts. Additionally, the Court imposes the same terms and conditions that were imposed in the Judgment entered on June 28, 1993 (Doc. CR-111).
- (4) The Clerk is directed to vacate the June 28, 1993 judgment and to enter an Amended Judgment in the criminal case.
- (5) The Clerk is directed to enter judgment in favor of Mulford in the civil case and then to close the civil case.

DONE AND ORDERED at Tampa, Florida, this 3rd day of January, 2017.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
All Parties and Counsel of Record