

FILED  
U.S. DISTRICT COURT  
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

2016 MAY -9 AM 11:14

CLERK  
SO. DIST. OF GA.

VERNON DOWLING, )  
)  
Petitioner, )  
)  
v. )  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent. )  
\_\_\_\_\_ )

CASE NOS. CV415-280  
CR413-171

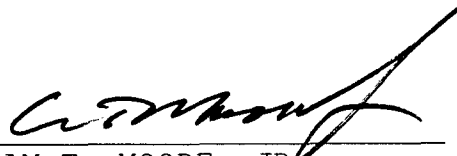
O R D E R

Before the Court is Petitioner's Motion for Reconsideration (Doc. 9); Motion to Amend, Reduce, Review, Adjust and/or Correct Sentence (Doc. 10) which the Court construes solely as a motion to amend; and Motion for Retroactive Application of Johnson v. United States (Doc. 12). Petitioner requests reconsideration of this Court's November 20, 2015 order (Doc. 7). The Court sees no reason to disturb its prior order. Accordingly, Petitioner's Motion for Reconsideration (Doc. 9) is **DENIED**.

Petitioner also requests to amend his petition and asks this this Court to review his case on the merits because Johnson v. United States, 576 U.S. \_\_\_, 135 S. Ct. 2551 (2015), which struck the residual clause in the Armed Career Criminal Act as vague, has been made retroactive by the Supreme Court's decision in Welch v. United States, \_\_\_

U.S. \_\_\_\_, 136 S. Ct. 1257 (2016). (Doc. 10 at 1; Doc. 12 at 3.) However, Johnson does not apply to Petitioner's case. Petitioner was sentenced as a career offender under the Sentencing Guidelines, rather than the Armed Career Criminal Act. The Eleventh Circuit has held that the decision in Johnson did not void the residual clause in the Sentencing Guidelines. United States v. Matchett, 802 F.3d 1185, 1193-94 (11th Cir. 2015). As a result, Petitioner is not entitled to relief under Johnson. Accordingly, while Petitioner's Motion to Amend (Doc. 10) is **GRANTED**, Petitioner's Motion for Retroactive Application (Doc. 12) is **DENIED**. Petitioner's 28 U.S.C. § 2255 petition as amended is likewise **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal.

SO ORDERED this 9<sup>th</sup> day of May 2016.



WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA