

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

VICTON Y. BETHEL,)	
)	
Petitioner,)	
)	
v.)	NO. 15-3244
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

RICHARD MILLS, U.S. District Judge:

Petitioner Victon Y. Bethel has filed a Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct a Sentence [d/e 1]. In the Motion, the Petitioner purports to rely on Johnson v. United States, 135 S. Ct. 2551 (2015). In Johnson, the United States Supreme Court held that “imposing an increased sentence under the residual clause of the Armed Career Criminal Act violates the Constitution’s guarantee of due process.” Id. at 2563.

In Price v. United States, 2015 WL 4621024 (7th Cir. Aug. 10, 2015), the United States Court of Appeals for the Seventh Circuit held that

the Supreme Court in Johnson had announced a new substantive rule retroactive to cases on collateral review. See *id.* at *3.

The Court has reviewed the Petitioner's underlying criminal case. See Case No. 3:07-CR-30080. The Petitioner's sentence was not enhanced pursuant to the residual clause of the Armed Career Criminal Act. His sentence was enhanced pursuant to U.S.S.G. § 4B1.1, based on prior convictions for Attempted Unlawful Delivery of a Controlled Substance and Aggravated Battery. See *id.*, Doc. No. 19 ¶32. Accordingly, the Court concludes that Johnson has no applicability to the Petitioner's case. The Petitioner is entitled to no relief under § 2255.

An appeal may be taken if the Court issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(A). Because the Petitioner has not "made a substantial showing of the denial of a constitutional right," see 28 U.S.C. § 2253(c)(2), the Court declines to issue a certificate of appealability under Rule 11 of the Rules Governing Section 2255 Proceedings.

Ergo, the Motion under 28 U.S.C. § 2255 of Victor Y. Bethel to

Vacate, Set Aside or Correct Sentence [d/e 1] is DENIED.

The Court declines to issue a certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 Proceedings.

The Clerk will terminate this case.

ENTER: August 27, 2015

FOR THE COURT:

s/Richard Mills
Richard Mills
United States District Judge