

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JESSE A. STOLDORF,

Petitioner,

v.

No. 3:17-cv-00945-DRH-CJP

T. G. WERLICH,

Respondent.

MEMORANDUM and ORDER

HERNDON, District Judge:

Now before the Court is Jesse A. Stoldorf's petition for writ of habeas corpus under 28 U.S.C. §2241 (Doc. 1).

In July 2005, petitioner was sentenced in the Central District of Illinois to 264 months imprisonment after being convicted of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). *United States v. Stoldorf*, No. 04-cr-20048-MPM-DGB (C.D. Ill.). His sentence was enhanced pursuant to 18 U.S.C. §924(e) (the Armed Career Criminal Act, or ACCA). The enhancement was based in part on two convictions for Montana burglary. Relying on *Mathis v. United States*, — U.S. —, 136 S. Ct. 2243 (2016), petitioner now argues that he is entitled to be resentenced without the ACCA enhancement.

Respondent has filed a response conceding that Stoldorf is entitled to habeas relief under *Mathis*. Further, respondent concedes that Stoldorf is entitled to immediate release from prison because he has already served more than the maximum unenhanced sentence for violating 18 U.S.C. § 922(g)(1). *See*,

Doc. 10.

In view of respondent's concession, the Court **GRANTS** the petition for writ of habeas corpus under 28 U.S.C. §2241 (Doc. 1) and **ORDERS** the following relief:

1. Petitioner's armed career criminal enhanced sentence imposed by the Central District of Illinois in Case No. 04-cr-20048 is **VACATED**.
2. Stoldorf shall be resentenced forthwith by the Central District of Illinois.
3. Stoldorf shall be immediately released from the Bureau of Prisons.
4. The Clerk of Court is **DIRECTED** to enter judgment in favor of petitioner.
5. The Clerk is **DIRECTED** to furnish copies of this Order and the Judgment to the Bureau of Prisons, the United States Attorney for the Central District of Illinois, and to the Clerk of the District Court for the Central District of Illinois for filing in Case No. 04-cr-20048.

IT IS SO ORDERED.

Signed this 4th day of December, 2017.

David Herndon
Judge Herndon
2017.12.04
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UNITED STATES DISTRICT COURT