

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

<b>ANDY R. BACCAM,</b>	)	
<b>Reg. No. 10647-041</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Civil No. 18-cv-1150-CJP<sup>1</sup></b>
<b>vs.</b>	)	
	)	
<b>T. G. WERLICH,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM and ORDER**

**PROUD, Magistrate Judge:**

Now before the Court is petitioner's Motion for Immediate Release Forthwith. (Doc. 19).

Petitioner plead guilty to one count of possession with intent to distribute in excess of 50 grams of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), and one count of possession of a firearm during a drug trafficking crime in violation of 18 U.S.C. §§ 924(c)(1)(A). He was sentenced to 180 months on the first count and 60 months on the second count, to be served consecutively.

Relying on *Mathis v. United States*, — U.S. —, 136 S. Ct. 2243 (2016), petitioner argues that he is entitled to be resentenced without the career offender enhancement because his prior Minnesota convictions no longer qualify as crimes of violence. Respondent conceded that Baccam is entitled to habeas relief under *Mathis*. The Court granted the petition for writ of habeas corpus under 28 U.S.C.

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<sup>1</sup> This case was assigned to the undersigned for final disposition upon consent of the parties pursuant to 28 U.S.C. §636(c). See, Doc. 10.

§2241 and ordered that petitioner be resentenced forthwith by the District of Minnesota. (Doc. 17).

Petitioner argues that he is entitled to immediate release because he has already served more than the “maximum unenhanced sentence for violating of 21 U.S.C. §§ 841(a) and (b); and 18 U.S.C. § 924(c).” (Doc. 19, p. 1).

Petitioner is not entitled to immediate release. The sentence imposed was within the permissible statutory range. He could have been sentenced up to forty years on Count 1 and up to life imprisonment on Count 2. It remains for the District of Minnesota to resentence petitioner.

The Court notes that the District of Minnesota has appointed counsel to represent Baccam there with regard to resentencing.

Petitioner’s Motion for Immediate Release Forthwith (Doc. 19) is **DENIED**.

**IT IS SO ORDERED.**

**DATE: October 1, 2018.**

**s/ Clifford J. Proud**  
**CLIFFORD J. PROUD**  
**UNITED STATES MAGISTRATE JUDGE**