

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ERIC JONES,)	
Petitioner,)	
)	
vs.)	Case No. 1:16-cv-00342-TWP-TAB
)	
UNITED STATES OF AMERICA.)	

Entry Granting Motion to Stay Proceedings

The defendant was sentenced to an enhanced sentence based on the residual clause of the Armed Career Criminal Act. He now challenges that enhancement in this action pursuant to 28 U.S.C. § 2255.

The parties have stipulated that based on *Price v. United States*, 795 F.3d 731 (7th Cir. 2015), in which the Seventh Circuit ruled that *Johnson v. United States*, 135 S.Ct. 2551 (2015) announced a new rule of constitutional law and applies retroactively, the defendant’s sentence is unlawful in that it exceeded the otherwise applicable statutory maximum penalty of ten years of incarceration. The defendant has served approximately 50 months toward his sentence.

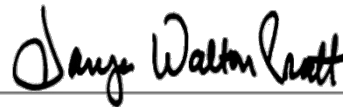
The United States moved for a stay of proceedings based on the grant of certiorari in *Welch v. United States*, No. 15-6418, 2016 WL 90594 (U.S. Jan. 8, 2016), which will decide whether *Johnson* announced a new substantive rule of constitutional law that applies retroactively to cases that are on collateral review. The defendant opposes the government’s motion for stay of proceedings.

The ruling in *Welch* is anticipated before the end of the current Supreme Court term. Because this is not a case in which the parties have stipulated that the defendant is now entitled to immediate release based on *Price*, the pivotal factor of irreparable harm is not present.

Accordingly, the United States' motion for stay of proceedings in light of *Welch* [dkt. 4] is **granted**. The action is **stayed** until the end of the current Supreme Court term or until *Welch* is decided; whichever date is later. If *Welch* is decided this term, the parties shall submit further stipulations or arguments as to the effect of that decision. They shall do so within **fourteen (14) days** of the decision.

IT IS SO ORDERED.

Date: 2/25/2016

A handwritten signature in black ink, reading "Tanya Walton Pratt", written over a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Electronically registered counsel