

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

BILLY JOE DUGARD,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 4:16-cv-0103-TWP-TAB
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**Entry Granting Motion to Withdraw Counsel and Directing Further Proceedings**

Counsel for the petitioner has moved to withdraw her appearance on the petitioner’s behalf. That motion [dkt. 9] is **granted** and the appearance of Sara J. Varner, Indiana Federal Community Defenders, shall be **withdrawn** as counsel for the petitioner.

On June 26, 2015, the United States Supreme Court held that the residual clause of the Armed Career Criminal Act (“ACCA”) was unconstitutional based on vagueness. *Johnson v. United States*, 135 S.Ct. 2551 (2015). *Johnson* was determined to announce a new substantive rule of constitutional law that applied retroactively to ACCA defendants. *Welch v. United States*, 136 S.Ct. 1257 (2016).

Throughout this case, it has been presented that the petitioner’s entitlement to relief depends on the retroactive application of *Johnson* to the Sentencing Guidelines, rather than the ACCA. In *Beckles v. United States*, No. 15-8544, \_\_\_ U.S. \_\_\_, 2017 WL 855781 (U.S. March 6, 2017), the Supreme Court held that the Sentencing Guidelines are not subject to vagueness challenges under the Due Process Clause, meaning that the *Johnson* doctrine does *not* apply to guidelines cases.

The *pro se* petitioner shall have **through April 28, 2017**, in which to either a) voluntarily dismiss this action or b) file a brief in support of his motion for relief pursuant to 28 U.S.C. § 2255 and thereby **show cause** why this action should not be dismissed as untimely and lacking merit under *Beckles*. If the petitioner files a brief in support, the United States shall have **fourteen (14) days** in which to respond.

**The clerk shall update** the docket to add the petitioner's address to the docket, as indicated in the distribution list on this Entry.

**IT IS SO ORDERED.**

Date: 3/22/2017



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

Distribution:

Electronically Registered Counsel

Billy Joe Dugard  
#10996-028  
Inmate Mail/Parcels  
Coleman II USP  
P.O. Box 1034  
Coleman, FL 33521

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