IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

BRANCH SPARROW

V.

CIVIL NO. CCB-16-1307 Criminal No. CCB-12-0273

UNITED STATES OF AMERICA

...000...

MEMORANDUM

Now pending is Branch Sparrow's motion to vacate sentence under 28 U.S.C. § 2255, as supplemented following the Supreme Court's decision in *United States v. Davis*, 139 S.Ct. 2319 (2019) and the Fourth Circuit's decision in *U.S. v. Simms*, 914 F.3d 229, 233-34 (4th Cir. 2019) (en banc). (ECF Nos. 71, 72, 74, 75 and 81)¹ The government has responded.

Sparrow pled guilty on December 12, 2012, to conspiracy to commit Hobbs Act Robbery in violation of 18 U.S. § 1951(a) (Count One) and use of a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c) (Count Three). He was sentenced to 66 months incarceration on Count One, and 84 months consecutive on Count Three. As the government concedes, Hobbs Act conspiracy no longer qualifies as a crime of violence under either the force clause (Simms) or the residual clause (Davis). Accordingly, as requested by the government and anticipated in Davis, 139 S.Ct. at 2336, both sentences, as well as the 924(c) conviction, will be vacated, and Sparrow will be resentenced. Dean v. U.S., 137 S.Ct. 1170, 1176-77 (2017); United States v. Hillary, 106 F.3d 1170, 1172 (4th Cir. 1997).

A separate Order follows.

10/2/19 Date

Catherine C. Blake
United States District Judge

¹ Sparrow's Motion to Supplement (ECF No. 82) will be granted.