

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MEMORANDUM AND ORDER

This matter is before the Court on Charles Hollywood's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The motion is denied.

Movant pled guilty to distribution of five or more grams of cocaine base. United States v. Hollywood, 1:08CR153 SNLJ (E.D. Mo.). On November 6, 2009, the Court sentenced him to 144 months' imprisonment. His sentence was enhanced under Section 4B1.1 of the United States Sentencing Guidelines because he had at least two prior felonies that qualified him for Career Offender status.

Movant seeks to reduce his sentence pursuant to Johnson v. United States, 135 S.Ct. 2551 (2015). In Johnson, the Court held that imposing an increased sentence under the residual clause of the Armed Career Criminal Act (ACCA) violates the Constitution's guarantee of due process. Id. at 2557. Because he was not sentenced as an Armed Career Criminal, the holding in Johnson does not entitle him to relief. Moreover, he had two prior convictions for second-degree assault, both of which involved his attempt to cause serious physical harm against another by means of a dangerous weapon. As a result, the motion is denied.

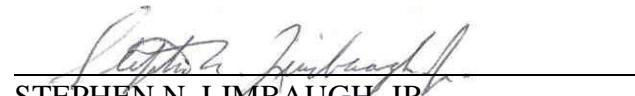
Finally, movant has failed to make a substantial showing of the denial of a constitutional right, which requires a demonstration “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right.” Khaimov v. Crist, 297 F.3d 783, 785 (8th Cir. 2002) (quotation omitted). Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

Accordingly,

IT IS HEREBY ORDERED that movant’s motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 is **DENIED**.

An Order of Dismissal will be filed separately.

Dated this 23rd day of March, 2016.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE