

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DERRICK LAMONT TURNER,)
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Movant,)
)
)
v.) No. 1:15CV241 JAR
)
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UNITED STATES OF AMERICA,)
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)
)
Respondent,)

MEMORANDUM AND ORDER

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

Movant pled guilty to conspiracy to possess with intent to distribute five kilograms of cocaine. *See United States v. Turner*, 1:11CR103 JAR (E.D. Mo.). On June 29, 2012, the Court sentenced him to 192 months' imprisonment. His sentence was enhanced under Section 4B1.1 of the United States Sentencing Guidelines because he had at least two prior drug 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 felony controlled substance convictions. 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).

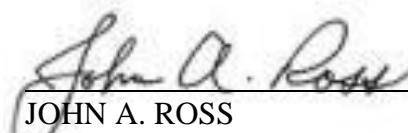
Accordingly,

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

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

An Order of Dismissal will be filed separately.

Dated this 14th day of April, 2016.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE