

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

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.) No. 1:07CR53 HEA
)
)
DEVIN C. WILSON,)
)
Defendant.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on its own motion. Defendant has filed a motion for relief from judgment pursuant to Johnson v. United States, 135 S.Ct. 2551 (2015). The Court finds that the motion should be administratively terminated and opened as a new case under 28 U.S.C. § 2255, as he may only obtain relief under Johnson by bringing a motion to vacate before this Court.

Defendant will be provided with a copy of the Court's form petition for filing an action under 28 U.S.C. § 2255, and he will be allowed thirty (30) days from the time the new case is opened to file his petition. Defendant's failure to file his amended petition will result in a dismissal of his motion to vacate, without prejudice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to **administratively terminate** defendant's motion for relief from judgment [Doc. #136] and to open it as a new civil action under 28 U.S.C. § 2255. The Clerk should note that this is a Johnson action.

IT IS FURTHER ORDERED that the Clerk shall provide defendant with a copy of the court form for filing a petition under 28 U.S.C. § 2255.

IT IS FURTHER ORDERED that defendant shall have thirty (30) days from the date the new case is opened to file a copy of his petition, pursuant to 28 U.S.C. § 2255, containing all of his claims for relief, including those claims arising under Johnson, on the court form.

IT IS FURTHER ORDERED that defendant's failure to comply with the present Memorandum and Order will result in a dismissal of the new action, filed pursuant to 28 U.S.C. § 2255, without prejudice.

Dated this 24th day of March, 2016.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE