

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

OFFIONG ARNEZ GILLIMAS,)	
)	
Movant,)	
)	
v.)	No. 4:09CV1118 JCH
)	
UNITED STATES OF AMERICA,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

This matter is before the Court on movant’s motion for appointment of counsel, in which movant believes he may be entitled to relief under *Johnson v. United States*, 135 S.Ct. 2551 (2015). The motion is denied.

In *Johnson*, the Court held the “residual clause” of the Armed Career Criminal Act (“the ACCA”), 18 U.S.C. § 924(e)(2)(B)(ii), is unconstitutionally vague. The ACCA enhances the punishment for firearms offenses under 18 U.S.C. § 922(g) when the defendant has at least three prior convictions for a serious drug offense or a “violent felony.” The term “violent felony” is defined in the ACCA as felony offense that “(1) has as an element the use, attempted use, or threatened use of physical force against the person of another, or (ii) is burglary, arson, or extortion, involves the use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.” 18 U.S.C. § 924(e)(B) (emphasis added). The “otherwise involves” language of the ACCA is the residual clause that the Supreme Court found unconstitutional. *Johnson*, 135 S.Ct. at 2563.

In this case, movant was convicted of possession with intent to distribute cocaine base (Count II), possession of a firearm in furtherance of a drug trafficking crime (Count IV), and

threat of force/intimidation against a witness (Count IX). *United States v. Gillimas*, 4:07CR430 JCH (E.D. Mo.). The Court sentenced movant to a total term of 300 months. The term consisted of 240 months concurrent on Counts II and IX, and 60 months on Count IV. The sentence was not enhanced under the ACCA or Chapter Four of the United States Sentencing Guidelines. As a result, Johnson has no effect on movant's sentence.

Accordingly,

IT IS HEREBY ORDERED that movant's motion for appointment of counsel [ECF No. 33] is **DENIED**.

Dated this 9th day of May, 2016.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE