

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GERROD LAMONT IRONS,)	
)	
Movant,)	
)	
v.)	No. 4:15-CV-1349 (CEJ)
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on the motion and amended motion of Gerrod Lamont Irons to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, and movant's motion to supplement the motion to vacate. The United States has filed a response.¹

After pleading guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), movant was sentenced under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), to a 180-month term of imprisonment. His status as an armed career criminal was premised on his prior Illinois felony conviction for robbery and his Missouri felony convictions burglary second degree and burglary second degree of an inhabitable structure.

In its response to the motion to vacate, the United States concedes that the Missouri offense of burglary second degree of an inhabitable structure is no longer a predicate offense that may be used to enhance a sentence under the ACCA. See *Johnson v. United States*, 135 S.Ct. 2551 (2015); *Mathis v. United States*, 136 S.Ct. 2243 (2016); *Henderson v. United States*, 2016 WL 4967898 at *6 (W.D. Mo. 2016).

¹ Although the government maintains that the motion to vacate is not timely, it has agreed to waive its statute of limitations defense.

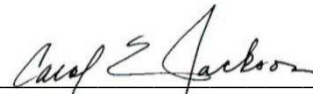
Thus, movant does not have the requisite number of predicate felony convictions to qualify him as an armed career criminal. Because movant is entitled to relief under *Johnson* and *Mathis*, the judgment entered in the criminal case will be vacated, and movant will be re-sentenced without application of the ACCA.

Accordingly,

IT IS HEREBY ORDERED that the motion and amended motion of Gerrod Lamont Irons to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255 [Doc. # 1 and Doc. # 8] and the motion to supplement [Doc. # 18] are **granted**.

IT IS FURTHER ORDERED that a copy of this Memorandum and Order shall be filed in the underlying criminal case, United States v. Gerrod Lamont Irons, No. 4:14-CR-81 (CEJ).

An order vacating the judgment will be entered separately.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of March, 2017.