

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SHAUN E. LEACHMAN,	)	
	)	
Movant,	)	
	)	
v.	)	No. 4:16-CV-146 (CEJ)
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the motion and amended motion of Shaun E. Leachman to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. The United States has filed a response.

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 120-month term of imprisonment.<sup>1</sup> His status as an armed career criminal was premised on his three prior Missouri felony convictions for burglary second degree of an inhabitable structure, assault first degree of a law enforcement officer, and resisting arrest by creating a substantial risk of serious physical injury to others.

In its response to the motion to vacate, the United States concedes that movant's burglary second degree conviction 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). Thus, movant does not

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<sup>1</sup> The sentence represented a downward departure from the guideline imprisonment range of 188-235 months.

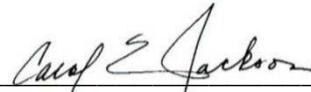
have the requisite number of predicate felony convictions to qualify him as an armed career criminal. Because movant is entitled to relief under *Johnson* and *Mathis*, the judgment entered in the criminal case will be vacated, and movant will be re-sentenced without application of the ACCA.

Accordingly,

**IT IS HEREBY ORDERED** that the motion and amended motion of Shaun E. Leachman to vacate, set aside, or correct sentence [Doc. # 1 and # 13] 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. Shaun E. Leachman, No. 4:09-CR-705 (CEJ).

An order vacating the judgment will be entered separately.



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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of March, 2017.