

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RUSSELL PAXTON,)
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Movant,)
)
)
vs.) No. 4:16 CV 813 CDP
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UNITED STATES OF AMERICA,)
)
)
Respondent.)

MEMORANDUM AND ORDER

Movant Russell Paxton seeks relief under 28 U.S.C. § 2255, relying on the recently decided U.S. Supreme Court cases of *Johnson v. United States*, 135 S.Ct. 2551 (2015) and *Welch v. United States*, 136 S.Ct. 1257 (2016). Paxton was sentenced in 2004 to 188 months imprisonment following his guilty plea to one count of being a felon in possession of a firearm and one count of possession of an unregistered firearm. *United States v. Paxton*, Case No. 4:03CR601 SNL. The unregistered firearm charge carried a ten-year maximum, but because Paxton qualified as an Armed Career Criminal under 18 U.S.C. §924(e), the felon in possession charge carried a mandatory minimum sentence of 15 years.

The United States Probation Office, at the Court's direction, reviewed Paxton's case and prepared a "Resentencing Report," which concluded that after *Johnson* and *Welch*, Paxton faced only the ten-year maximum sentence under 18

U.S.C. §924(a)(1) for the felon in possession charge. The report concluded that the proper range under the United States Sentencing Guidelines is 110 to 137 months.

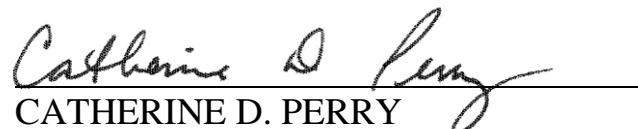
Both defense counsel and the government agree that Paxton should be resentenced. I have therefore set the case for resentencing, and I will grant this § 2255 motion.

Accordingly,

IT IS HEREBY ORDERED that the motion and amended motion to vacate, set aside or correct sentence [1,5] are granted. A separate judgment in accord with this order will be entered in this case.

IT IS FURTHER ORDERED that resentencing in Case No. 4:03CR601 has been set for **Friday, September 2, 2016 at 1:00 p.m. in Courtroom 14-South.** It is the Court's understanding that defendant, through counsel, intends to waive his right to appear at the resentencing hearing.

IT IS FURTHER ORDERED that the Clerk of Court is directed to docket a copy of this Memorandum and Order in that criminal case.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 30th day of August, 2016.