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

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## MEMORANDUM AND ORDER

Before the Court is movant's motion to vacate, brought pursuant to 28 U.S.C. § 2255. In his motion to vacate, movant seeks a reduction in his sentence pursuant to the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

In *Johnson*, the Supreme Court of the United States held the "residual clause" of the Armed Career Criminal Act ("the ACCA"), 18 U.S.C. § 924(e)(2)(B)(ii), unconstitutionally vague. As movant was convicted under the ACCA and as it appears from the motion to vacate that he is relying on *Johnson* as the basis for his arguments for resentencing, this Court will request assistance from the United States Probation Office for the Eastern District of Missouri in reviewing movant's § 2255 petition.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of Court shall notify the United States Probation Office of movant's § 2255 motion to vacate and that it is brought pursuant to the Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

IT IS FURTHER ORDERED that, within a reasonable time, and in its usual course of business, the United States Probation Office shall prepare and file in movant's criminal case a

new Resentence Report relative to movant's contentions under Johnson, which shall be filed

under seal, with access to the Court and the parties who have entered their appearance in this

matter.

IT IS FURTHER ORDERED that within fourteen (14) days of the filing of the

Probation Office's Disclosure Copy of the Resentence Report, the parties shall file, in movant's

criminal case, simultaneous objections to the Resentence Report or statements that they have no

objection. Within seven (7) days of such time, the Office of Probation and Pretrial Services shall

file a final copy of the Resentence Report in movant's criminal case.

IT IS FURTHER ORDERED that on the same day as the Final Resentence Report is

filed by the Probation Office in the criminal case, the Government shall file its response to

movant's motion to vacate in this case.

IT IS FURTHER ORDERED that any reply to the Government's response to the

motion to vacate shall be filed, in this case, no later than fourteen (14) days from the date the

response is filed.

Dated this <u>20th</u> day of June, 2016.

\s\ Jean C. Hamilton

UNITED STATES DISTRICT JUDGE

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