

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

EARL WILSON,	)	
	)	
Movant,	)	
	)	
v.	)	No. 4:16CV874 HEA
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**OPINION, MEMORANDUM AND ORDER**

Before the Court is movant’s motion to vacate, brought pursuant to 28 U.S.C. § 2255. In his motion, movant seeks a reduction in his sentence pursuant to the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).<sup>1</sup> In addition, movant states, “Furthermore, petitioner has been in federal custody nine years, almost at the ten years maximum authorized for his offense. Assuming only for argument the accuracy of the original PSR’s sentencing Guidelines calculation without the Chapter 4 enhancement based on ACCA, the total offense level of 17 (PSR, p. 3, ¶20) combined with a Criminal History Category of II based on a total of 3 criminal history points (PSR, p. 6, ¶51), would produce a Guidelines range of 27 - 33 months. Petitioner has already served far more than twice the maximum under the guideline range.”

As movant was convicted under the ACCA, and given the particular circumstances of this motion to vacate, the Court will expedite this case and instruct the Assistant United States Attorney to consult with the United States Probation Office for the Eastern District of Missouri and file a motion in response to the instant § 2255 motion to vacate **on or before July 15, 2016**.

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<sup>1</sup> 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.

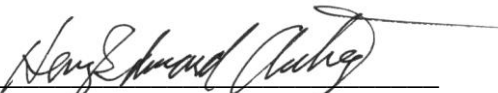
Accordingly,

**IT IS HEREBY ORDERED** that the Assistant United States Attorney shall confer with the United States Probation Office and shall file a motion in response to the instant § 2255 motion for relief **on or before July 15, 2016**.

**IT IS FURTHER 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), and shall send the Probation Office a copy of this Order.

**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 seven (7) days from the date the response is filed.

Dated this 30th day of June, 2016

  
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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE