

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LENNARD BROWN,)
)
 Movant,)
)
 vs.) Case No. 4:16 CV 1026 CDP
)
 UNITED STATES OF AMERICA,)
)
 Respondent)
)

MEMORANDUM AND ORDER

In October of 2014 Lennard Brown pleaded guilty to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). He had a total offense level of 23 and a criminal history category of IV, resulting in a sentencing guidelines range of 70 to 87 months. I varied from the advisory guidelines range and sentenced him to 48 months' imprisonment. Case No. 4:14CR129 CDP.

After the United States Supreme Court decided *Johnson v. United States*, 135 S.Ct. 2551 (2015), Brown filed a Motion to Correct Sentence Under 28 U.S.C. § 2255, arguing that under *Johnson* his base offense level under U.S.S.G. § 2K2.1 should have been lower because, he argued, one of his prior convictions should no longer be considered a crime of violence under the sentencing guidelines. His base offense level had been calculated as a 24 under 2K2.1(a)(2), because he committed

the instant offense after sustaining at least two felony convictions for a crime of violence, specifically, Burglary Second Degree and Residential Burglary.

In *Johnson* the Supreme Court held that the “residual clause” of the Armed Career Criminal Act was unconstitutionally vague, and Brown argues that the same analysis should apply to U.S.S.G. § 2K2.1, so that his Burglary Second Degree conviction should no longer be considered a crime of violence. *Johnson* was not a sentencing guidelines case but was a constitutional void for vagueness challenge to the Armed Career Criminal Act. After *Johnson* was decided, and after Brown filed this motion, the Supreme Court decided *Beckles v. United States*, 137 S.Ct. 886 (2017), and held that the United States Sentencing Guidelines could not be challenged on void for vagueness grounds.

I previously stayed this case pending the decision in *Beckles*. Given that *Beckles* has now been decided and makes it clear that Brown has no basis for relief under *Johnson*, I will lift the stay and deny the Motion to Vacate.


Accordingly,

IT IS HEREBY ORDERED that the stay in this case is lifted.

IT IS FURTHER ORDERED that the motion to vacate, set aside or correct sentence [1] is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall docket a copy of this Memorandum and Order in Brown’s Criminal Case No. 4:14CR129 CDP.

A separate judgment in accord with this order is entered today.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 6th day of June, 2017.