

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

MARCELL HOGANS,)
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Movant,)
)
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v.) No. 4:16-CV-1058 JCH
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)
UNITED STATES OF AMERICA,)
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)
)
Respondent,)

MEMORANDUM AND ORDER

This matter is before the Court on Marcell Hogan's motion for reduction of sentence and modification of supervised release terms. The motion is denied.

To the extent that the motion can be construed as a motion to vacate under 28 U.S.C. § 2255, it must be denied as successive. Movant previously sought relief under § 2255, which was denied. *Hogans v. United States*, No. 4:08-CV-1887 JCH. He does not have permission to file a successive motion from the Court of Appeals. As a result, he is prohibited from bringing this action under § 2255(h).

There are no other provisions of law that might entitle movant to relief. The Court previously denied his motion for reduction of sentence under 18 U.S.C. § 3582 based on Amendment 782 to the United States Sentencing Guidelines. *United States v. Hogans*, No. 4:07-CR-650 JCH, Doc. No. 201.

Additionally, movant is not entitled to relief under *Johnson v. United States*, 135 S.Ct. 2551 (2015). Defendant was found to be a Career Offender based on prior convictions for controlled substance offenses. The holding in *Johnson* did not impact the enhancement for

controlled substance convictions under Section 4B1.1 of the United States Sentencing Guidelines.

Finally, movant has not met the burden for issuing a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that movant's motion for reduction of sentence and modification of supervised release terms is **DENIED**, and this action is **DISMISSED** with prejudice.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

Judgment will be filed separately.

Dated this 19th day of July, 2016.

\s\ Jean C. Hamilton

UNITED STATES DISTRICT JUDGE