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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GARY A. NISWONGER,	)	
	)	
Movant,	)	
	)	
v.	)	No. 4:16-CV-1097 RLW
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent,	)	

MEMORANDUM AND ORDER

Before the Court is movant's pro se motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which indicates that movant believes he may be eligible for relief under the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

On August 14, 2015, this Court entered an Administrative Order, styled *In Re: Johnson v. United States*. Pursuant to the Administrative Order, the Court will forward movant's § 2255 motion to the Office of the Public Defender for the Eastern District of Missouri, and provide the Public Defender forty-five (45) days to review the said motion and movant's criminal history in order to determine whether movant has a potential argument for a sentence reduction under *Johnson*. In order to facilitate this process, the Court has issued a separate Administrative Order, authorizing the Clerk of Court and the United States Probation Office to provide to the Office of the Federal Public Defender and to the Office of the United States Attorney any records in their possession, including sealed records from the Court file regarding the movant's criminal history.

If the Public Defender's Office decides movant has a potential argument under *Johnson*, the Public Defender, no later than forty-five (45) days of the date of this Order, should file either

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an amended motion to vacate under § 2255 in this case, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court is directed to forward a copy of movant's § 2255 motion to the Office of the Public Defender for the Eastern District of Missouri.

IT IS FURTHER ORDERED that the Public Defender shall notify this Court, within forty-five (45) days of the date of this Memorandum and Order, whether it will be pursuing movant's arguments under *Johnson*, either by filing a written notice in this action of their intent not to represent movant, or by filing an amended motion to vacate, brought pursuant to 28 U.S.C. § 2255, also in this action, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

IT IS FURTHER ORDERED that the Court shall hold this matter in abeyance for forty-five (45) days.

Dated this 25th day of July, 2016.

Ronnie L. White

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE