

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

DONALD BATEMAN,)	
)	
Movant,)	
)	
v.)	No. 4:16-CV-1771 AGF
)	
UNITED STATES OF AMERICA,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

This matter is before the Court *sua sponte*. On November 14, 2016, movant filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255, seeking relief pursuant to the Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015). On November 16, 2016, the Court directed the Office of the Public Defender for the Eastern District of Missouri to review movant’s motion to vacate, and on that same date, counsel entered their appearance on behalf of movant.

On December 27, 2016, counsel for movant requested an extension of time to file an amended motion to vacate on behalf of movant, pending the United State Supreme Court’s decision in *Beckles v. United States*, -- U.S.-- , 136 S.Ct. 2510, No. 15-8544, 2016 WL 1029080 (cert. granted June 27, 2016). The Court granted counsel’s request and stayed the action pending the outcome of *Beckles*.

On March 6, 2017, *Beckles* was decided by the Supreme Court. The Court found that the United States Sentencing Guidelines were not subject to a void for vagueness challenge under the Fifth Amendment due process clause. *Beckles v. United States*, 137 S.Ct. 886 (2017). After the ruling in *Beckles*, on March 23, 2017, counsel requested a thirty (30) day extension of time to

allow counsel to discuss the outcome of *Beckles* and its effect on movant's motion to vacate. Counsel's extension was granted on March 24, 2017.

Counsel for movant has failed to file an amended motion to vacate in a timely manner, or if his client so chooses, a timely dismissal of this action in light of recent case law. Counsel shall be provided thirty (30) days to file an amended motion to vacate, or this Court will dismiss this action for failure to prosecute.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is instructed to reopen the present matter.

IT IS FURTHER ORDERED that within thirty (30) days of the date of this Memorandum and Order, movant shall file an amended motion to vacate.

IT IS FURTHER ORDERED that if movant fails to file an amended motion to vacate in a timely manner, this action will be dismissed for failure to prosecute.

Dated this 19th day of April, 2018.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE