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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

No. CV 15-1184 JAP/LAM
No. CR 12-1072 JAP

LUIS GERARDO BENITEZ,

Defendant/Movant.

ORDER LIFTING STAY AND DIRECTING THE PARTIES TO CONFER AND FILE A JOINT STATEMENT IN LIGHT OF *BECKLES*

THIS MATTER is before the Court *sua sponte* under Rule 4 of the Rules Governing Section 2255 Proceedings in light of the U.S. Supreme Court's ruling in *Beckles v. United States*, 580 U.S. ___, No. 15-8544, slip op (March 6, 2017). Defendant/Movant has filed a motion and amended motion pursuant to 28 U.S.C. § 2255 claiming that he improperly received an enhanced sentence as a career offender under the United States Sentencing Guidelines because the residual clause of USSG § 4B1.2 is unconstitutionally vague under the reasoning in *Johnson v. United States*, 576 U.S. ___, 135 S.Ct. 2551 (2015). *See* (*CV Doc. 1; CR Doc. 49*). Plaintiff/Respondent United States of America filed a motion to stay the proceedings based on the pendency of *Beckles*, which was granted by the Court. *See* (*CV Docs. 6, 18, 19; CR Docs. 55, 64, 65*). In *Beckles*, the Supreme Court held that the United States Sentencing Guidelines are not subject to a void-for-vagueness challenge. 580 U.S. ___, No. 15-8544, slip op at 5.

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The Court will lift the stay and direct the parties to confer on the question of whether the Supreme Court's ruling in *Beckles* is dispositive of all issues raised in this § 2255 proceeding, and to file a joint statement advising the Court of the results of their conference. If either party contends that *Beckles* does not dispose of all issues, the statement shall identify the issue or issues that remain for determination by the Court after *Beckles* and the party raising the remaining issue or issues. The parties shall confer and file the joint statement **within fourteen days of entry of this Order**. **If neither party claims that any issues remain for adjudication following *Beckles,* the Court will enter an Order dismissing this § 2255 proceeding.** If the parties contend that issues still remain for determination, the Court will enter an order setting a schedule for supplemental briefing.

IT IS THEREFORE ORDERED that the stay in this case is hereby **LIFTED**.

IT IS FURTHER ORDERED that the parties shall confer on the question of whether the Supreme Court's ruling in *Beckles* is dispositive of all issues raised in this § 2255 proceeding, and shall file a joint statement advising the Court of the results of their conference **within fourteen (14) days of entry of this Order**.

IT IS SO ORDERED.

Lourdes A. Martínez

LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE