

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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COREY McGREGOR.,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.
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18 Civ. 2141(PAC)
16 Cr. 590 (PAC)

OPINION & ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner Corey McGregor, *pro se*, moves for *habeas* relief under 28 U.S.C. § 2255. On February 15, 2017, McGregor pled guilty to (1) committing Hobbs Act Robbery, in violation of 18 U.S.C. 1951(a); and (2) using a firearm in furtherance of a “crime of violence,” namely, the Hobbs Act Robbery, in violation of 18 U.S.C. § 924(c)(1)(A). On May 30, 2017, McGregor was sentenced to 18 months’ imprisonment for the Hobbs Act Robbery and 60 months, the mandatory minimum, for using a firearm, with the terms to run consecutively for a total of 78 months. McGregor’s *habeas* petition argues that his conviction and sentence for using a firearm should be vacated because (1) following *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), Hobbs Act Robbery no longer qualifies as a “crime of violence” under 18 U.S.C. § 924(c); and (2) he suffered ineffective assistance of counsel because his attorney did not inform him that it was being debated in the courts whether or not Hobbs Act robbery was a “crime of violence.” McGregor’s argument, however, is foreclosed by *United States v. Hill*, 832 F.3d 135 (2d Cir. 2016), amended May 9, 2018.

In *Hill*, the Second Circuit squarely held that, even after the Supreme Court’s decision in *Johnson*, “Hobbs Act robbery is a crime of violence under 18 U.S.C. § 924(c)(3).” *Hill*, 832 F.3d at 137. The amended opinion in *Hill*, issued after *Dimaya*, reaffirmed this holding. See

United States v. Hill, No. 14-3872, 2016 U.S. App. LEXIS 24264, at *2 n.2 (2d Cir. May 9, 2018). Thus, Hobbs Act Robbery is a crime of violence under 18 U.S.C. § 924(c), and McGregor's counsel was not ineffective in advising him as such. *Cf. United States v. Regalado*, 518 F.3d 143, 149 n.3 (2d Cir. 2008) (“[F]ailure to make a meritless argument does not amount to ineffective assistance.” (citation omitted)). Accordingly, McGregor's petition is **DENIED**.

Dated: New York, New York
May 29, 2018

SO ORDERED



PAUL A. CROTTY
United States District Judge

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