

violence” under § 924(c). In Johnson, the Court held that imposing an increased sentence under the residual clause of the Armed Career Criminal Act’s definition of “crime of violence” violates the Constitution’s guarantee of due process; the decision did not address § 924(c)’s definition of “crime of violence.” See id. at 2563.

The Government has filed the instant Motion to hold this action in abeyance pending decisions by the Fourth Circuit Court of Appeals in United States v. Ali, No. 15-4433, and United States v. Simms, Fourth Circuit Case No. 15-4640. (Doc. No. 4). In those cases, the Fourth Circuit is considering whether Johnson renders the residual clause of § 924(c) unconstitutionally vague. Both also involve convictions for Hobbs Act robbery.

The issues to be decided in Ali and Simmons may be dispositive of Petitioner’s claims for relief under Johnson. In light of these factors, and in the absence of opposition from Clinton, the Court finds it is in the interest of judicial economy to grant the Government’s Motion to hold this action in abeyance.

IT IS, THEREFORE, ORDERED that the Government’s motion to hold Clinton’s § 2255 Motion to Vacate in abeyance (Doc. No. 4) is **GRANTED**. The above-captioned action is held in abeyance pending the Fourth Circuit’s decisions in United States v. Ali, No. 15-4433 and/or United States v. Simms, Fourth Circuit Case No. 15-4640. The Government shall have 60 days from the date of either of these two decisions to file an answer, motion, or other response to Clinton’s § 2255 Motion to Vacate.

Signed: May 18, 2017



Robert J. Conrad, Jr.
United States District Judge

