

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-486-RJC
(3:06-cr-199-RJC-2)**

| | | |
|---|---|--------------|
| RAYMOND DUANE JONES, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |
| <hr style="width: 40%; margin-left: 0;"/> |) | |

THIS MATTER is before the Court on Petitioner’s Motion to Vacate under 28 U.S.C. § 2255, (Doc. No. 1), in which he seeks § 2255 relief under Johnson v. United States, 135 S.Ct. 2551 (2015). Also pending are Petitioner’s Motion to Stay Consideration of § 2255 Motion, (Doc. No. 2), and Respondent’s Motion to Place Motion Under 28 U.S.C. § 2255 in Abeyance, (Doc. No. 6).

Petitioner filed the instant § 2255 petition while his application for leave to file a second or successive § 2255 Motion to Vacate was pending in the Fourth Circuit. Counsel moved to stay these proceedings pending the Fourth Circuit’s resolution of the successiveness application. (Doc. No. 2). The Fourth Circuit has granted the successiveness application, Case No. 16-9280, and therefore the Motion to Stay will be denied as moot.

The Court ordered the Government to respond to the § 2255 petition but instead of responding, it moved to stay these proceedings until the Fourth Circuit Court of Appeals resolves United States v. Ali, Case No. 15-4433, and United States v. Simms, Case No. 15-4640. The Government argues that the issue Petitioner has raised in his Motion to Vacate has also been raised in Ali and Simms so that those cases may be dispositive of Petitioner’s claim. Petitioner’s counsel does not object to the Motion. (Doc. No. 6 at 2). The stay will be granted.

IT IS HEREBY ORDERED that

1. Petitioner's Motion to Stay Consideration of § 2255 Motion, (Doc. No. 2), is **DENIED** as moot.
2. Petitioner's Motion to Stay Consideration of Motion Under 28 U.S.C. § 2255, (Doc. No. 6), is **GRANTED**. The Government shall have 60 days following the Fourth Circuit's issuance of the mandate in Ali or Simms, whichever occurs first, to file its Response.

Signed: April 17, 2018



Robert J. Conrad, Jr.
United States District Judge

