

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

WILFREDO RAMOS-MARTINEZ,

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

Civil No. 16-2119 (ADC)
[Related to Crim. No. 01-638-2 (ADC)]

OPINION AND ORDER

Before the Court is Wilfredo Ramos-Martínez's ("petitioner") petition for habeas corpus relief pursuant to 28 U.S.C. § 2255. **ECF No. 1**. Petitioner pleaded guilty to one count of conspiracy to distribute an excess of five kilograms of cocaine, in violation of 21 U.S.C. § 846, for which he received a sentence of 480 months imprisonment and five years of supervised release. **Crim. No. 01-638, ECF No. 123**. In a separate section 2255 proceeding, the parties stipulated to reducing petitioner's sentence to 300 months imprisonment with five years of supervised release, after which the Court dismissed the petition.¹ **Civ. No. 08-1388, ECF Nos. 45, 46; Crim. No. 01-638, ECF No. 231**. In the stipulation reducing the sentence to 300 months, petitioner also

¹ The Court initially denied the petition on the merits. **Civ. No. 08-1388, ECF No. 26**. Petitioner appealed the denial. *Id.* at **ECF No. 29**. The First Circuit Court of Appeals vacated the denial and remanded for an evidentiary hearing. *Id.* at **ECF No. 40**. The Court held the hearing, after which point the parties reached the aforementioned stipulation. *Id.* at **ECF No. 45**.

“waived his right to bring any further § 2255 petitions stemming from this conviction.” Civ. No. 08-1388, ECF No. 46. Thus, the petition was effectively dismissed with prejudice.

In the present filing, petitioner seeks relief under *Johnson v. United States*, 135 S.Ct. 2551 (2015), which addresses the “crime of violence” provisions of the Armed Career Criminal Act (“ACCA”) in 18 U.S.C. § 924(e)(2)B). ECF No. 1; *see also* 28 U.S.C. § 2255(f)(3). However, the present petition is a second or successive petition under section 2255, for which petitioner must obtain leave to file from the First Circuit Court of Appeals. *See* 28 U.S.C. § 2244(b)(3)(A). Accordingly, the petition at ECF No. 1 is **DISMISSED WITHOUT PREJUDICE**. The Clerk of Court is to enter judgment accordingly.

SO ORDERED.

At San Juan, Puerto Rico, on this 13th day of September, 2018.

S/AIDA M. DELGADO-COLÓN
United States District Judge