

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

BRAD DAVIS,

Petitioner,

v.

No. 1:13-cv-01225-JDB-egb

No. 1:07-cr-10063-JDB-1

UNITED STATES OF AMERICA,

Respondent.

ORDER GRANTING § 2255 MOTION

On August 9, 2017, the Court took under advisement the motion of Petitioner, Brad Davis, to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (“Petition”). (Docket Entry 15.) The Court allowed Respondent, United States of America, fourteen days to submit additional material under *Shepard v. United States*, 544 U.S. 13 (2005), pertaining to Petitioner’s juvenile aggravated assault conviction. (*Id.* at PageID 80.)

Respondent did not submit additional materials, and the time for doing so has passed. Accordingly, for the reasons stated in the Court’s August 9, 2017, order, the Petition is GRANTED. The Court holds that Petitioner’s Tennessee aggravated assault conviction is not a qualifying predicate offense for sentence-enhancement purposes under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e). Because Davis does not have three qualifying convictions, as required for application of the ACCA, *see id.*, he is entitled to resentencing.¹

The Court shall set a hearing for resentencing by separate order.

¹ Petitioner also seeks resentencing under Claims 1 and 2 of the Petition. Those claims are denied as moot.

IT IS SO ORDERED, this 25th day of September 2017.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE