

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

JOSEPH KEMMERLING,

Petitioner,

v.

No. 1:16-cv-01151-JDB-egb  
No. 1: 14-cr-10040-JDB-1

UNITED STATES OF AMERICA,

Respondent.

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ORDER GRANTING MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE  
UNDER 28 U.S.C. § 2255

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A motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 was filed by the Petitioner, Joseph Kemmerling, on June 16, 2016 (the “Petition”). (Case Number 16-cv-1151, Docket Entry (“D.E.”) 1.) On June 30, 2017, Kemmerling filed an emergency motion requesting an immediate ruling for relief under Section 2255 pursuant to the recent decision of the Sixth Circuit Court of Appeals in *United States v. Stitt*, 860 F.3d 854 (6th Cir. 2017). (*Id.*, D.E. 7.) The United States Probation Office issued a memorandum addressing *Stitt* on July 27, 2017. The Court ordered on October 3, 2017, that the Government respond to the Petition in light of *Stitt*. (*Id.*, D.E. 8.) The Government submitted its response on October 16, 2017, conceding that, in light of the Sixth Circuit’s ruling, the relief sought by Kemmerling may be warranted. (*Id.*, D.E. 9.)

For good cause shown, the Petition is GRANTED. Further, the Clerk is DIRECTED to enter an order of production and set a resentencing hearing in case number 1:14-cr-10040-JDB-1.

IT IS SO ORDERED this 20th day of October 2017.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE