

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

JAMES BRIAN WHITT,

Petitioner,

v.

No. 1:16-cv-01191-JDB-egb

No. 1:15-cr-10018-JDB-4

UNITED STATES OF AMERICA,

Respondent.

ORDER DISMISSING PETITION WITHOUT PREJUDICE
AND
DIRECTING CLERK TO CLOSE CASE

On June 30, 2016, Petitioner, James Brian Whitt, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (“Petition”) seeking relief under *Johnson v. United States*, 135 S. Ct. 2551 (2015). (Case Number 16-cv-01191, Docket Entry (“D.E.”) 1.) On January 10, 2018, Petitioner filed a notice of voluntary dismissal. (*Id.*, D.E. 9.)

Under Rule 41(a), if the defendant has not filed an answer or motion for summary judgment in response to the complaint, the plaintiff may dismiss the complaint, without prejudice and without seeking a Court order, by filing a notice of dismissal. Fed. R. Civ. P. 41(a)(1)(A)(i). Respondent, United States of America, has not responded to the Petition. Accordingly, the Petition is DISMISSED without prejudice and the Clerk is DIRECTED to close the case.

IT IS SO ORDERED this 11th day of January 2018.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE