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7	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON	
8	AT SEATTLE	
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10	RONALD CLAUDE KETTELS,	Case No. C16-891RSL
11	Petitioner,	ORDER DENYING MOTION TO
12	V.	VACATE, SET ASIDE, OR CORRECT SENTENCE UNDER
13	UNITED STATES OF AMERICA,	28 U.S.C. § 2255
14	Respondent.	
15	This matter comes before the Court on petitioner Ronald Claude Kettels' motion under	
16	28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Dkts. ## 1, 6. The Court has	
17	considered the parties' memoranda, the exhibits, and the remainder of the record. ¹ For the	
18	reasons set forth below, the motion is DENIED.	
19	I. BACKGROUND	
20	On March 27, 2013, a jury convicted petitioner of one count of conspiracy to commit	
21	bank robbery (in violation of 18 U.S.C. § 371), three counts of armed bank robbery (18 U.S.C.	
22	§§ 2113(a) and (d)), and three counts of use of a firearm during and in relation to a crime of	
23	violence (18 U.S.C. § 924(c)(1)(A)(ii)). Case No. CR11-383RSL, Dkt. # 149. The Court	
24	sentenced petitioner to 840 months' imprisonment, including a 684-month mandatory	
25	consecutive sentence for use of a firearm during and in relation to a crime of violence. <u>Id.</u> at	
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¹ In addition to his motion, petitioner himself requested to supplement his filings with additional authority. Dkt. # 14. That request is GRANTED, and the Court has considered the additional filing.

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Dkt. # 165. Petitioner's conviction and sentence were affirmed on appeal. <u>See United States v.</u>
 <u>Kettels</u>, 586 F. App'x 304 (9th Cir. 2014).

On June 13, 2016, petitioner filed a pro se motion under 28 U.S.C. § 2255. Petitioner
argued that under the Supreme Court's decision in <u>United States v. Johnson</u>, 135 S. Ct. 2551
(2015), armed bank robbery is not a "crime of violence" for purposes of § 924(c). The Court
assigned counsel, and petitioner filed an amended § 2255 motion. The Court then stayed
resolution of petitioner's motions pending the Ninth Circuit's decision in <u>United States v.</u>
<u>Watson</u>, 881 F.3d 782 (9th Cir. 2018) (per curiam), which considered the same issues petitioner
raises.

II. DISCUSSION

Section 924(c) imposes a mandatory consecutive term of imprisonment for using or 11 carrying a firearm "during and in relation to a crime of violence." 18 U.S.C. § 924(c)(1)(A). The 12 statute provides two definitions of a crime of violence. Under § 924(c)'s so-called "force" 13 14 clause, a crime of violence is a felony that "has as an element the use, attempted use, or threatened use of physical force against the person or property of another." Id. § 924(c)(3)(A). 15 Under § 924(c)'s "residual" clause, a crime of violence is a felony "that by its nature, involves a 16 substantial risk that physical force against the person or property of another may be used in the 17 course of committing the offense." <u>Id.</u> § 924(c)(3)(B). 18

Here, petitioner argues that armed bank robbery does not satisfy either definition of a
crime of violence. He first contends that the residual clause is unconstitutionally vague under
Johnson, which invalidated a similar clause in the Armed Career Criminal Act, <u>id.</u>
§ 924(e)(2)(B). Accordingly, petitioner argues, the residual clause cannot support his conviction
and sentence under § 924(c). Additionally, petitioner maintains that armed bank robbery does
not constitute a crime of violence under the force clause, because it does not categorically entail
the use or threatened use of physical force.

The Ninth Circuit's decision in <u>Watson</u> forecloses petitioner's arguments. Like petitioner,
the <u>Watson</u> petitioners argued that their convictions for using a firearm during a crime of
violence were unlawful because the predicate offense—armed bank robbery (18 U.S.C.

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\$ 2113)—did not qualify as a crime of violence for purposes of \$ 924(c). The court squarely
rejected that argument, without reaching the constitutionality of the residual clause. Even the
least violent form of bank robbery—bank robbery by intimidation—"requires at least an implicit
threat to use the type of violent physical force" necessary to satisfy the force clause. Watson,
881 F.3d at 785 (quoting <u>United States v. Gutierrez</u>, 876 F.3d 1254, 1257 (9th Cir. 2017) (per
curiam)). Bank robbery by intimidation also meets the mens rea requirement for a crime of
violence. <u>Id.</u> Therefore, bank robbery under \$ 2113(a) invariably qualifies as a crime of violence
for purposes of \$ 924(c). Because an armed bank robbery conviction under \$\$ 2113(a) and (d)
"cannot be based on conduct that involves less force than an unarmed bank robbery requires,"
armed bank robbery also constitutes a crime of violence under \$ 924(c). <u>Id.</u> at 786.

<u>Watson</u> resolves petitioner's motions. Petitioner's conviction for armed bank robbery is a proper basis for his conviction and sentence for using or carrying a firearm during and in relation to a crime of violence.

III. CONCLUSION

The Court finds that petitioner has not demonstrated that his sentence should be vacated, set aside, or corrected. His petition is accordingly DENIED. The Court further finds that no evidentiary hearing is required because the record conclusively shows petitioner is not entitled to relief. See 28 U.S.C. § 2255(b). Likewise, petitioner has not substantially shown a denial of constitutional rights, and the Court concludes no certificate of appealability should issue. See id. § 2253(c)(2).

For the foregoing reasons, the Court ORDERS:

(1) Petitioner's motion, Dkt. ## 1, 6, is hereby DENIED; and

(2) Petitioner is DENIED a certificate of appealability under 28 U.S.C. § 2253.

DATED this 19th day of April, 2018.

Robert S. Lasnik United States District Judge

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