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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

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11 JOSEPH ROSS PECK,

12 Petitioner,

13 v.

14 UNITED STATES OF AMERICA,

15 Respondent.

CASE NO. 16-CV-5454 RJB

13-CR-5002 RJB

ORDER ON MOTION TO STAY

16 This matter comes before the Court on the United States of America's Motion to Stay
17 Decision in Defendant-Petitioner's Motion Pursuant to 28 U.S.C. § 2255. Dkt. 3. The Court has
18 considered the pleadings filed regarding the motion, and the remaining file.

19 On June 8, 2016, Petitioner filed a petition under 28 U.S.C. § 2255 to vacate and/or
20 correct his sentence based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). Dkt. 1 in *Peck v.*
21 *U.S.*, U.S. District Court for the Western District of Washington case no. 16-5454 RJB. In
22 *Johnson*, the U.S. Supreme Court held that the residual clause in the Armed Career Criminal Act
23 was unconstitutionally vague. In this case, Petitioner maintains that the convictions used to
24 calculate his offense level under the sentencing guidelines are not "crimes of violence" under

1 §4B1.2(a)(2) of the U.S. Sentencing Guidelines because *Johnson*'s vagueness holding applies.
2 Dkt. 1. Petitioner further asserts that *Johnson* applies retroactively to cases on collateral review
3 in which the court's Sentencing Guidelines calculation is being challenged. *Id.*

4 On June 27, 2016, the Supreme Court granted a petition for writ of certiorari in *Beckles v.*
5 *United States*, No. 15-8544, 2016 WL 1029080 (June 27, 2016). In the interest of judicial
6 economy, the United States now brings this motion, seeking to stay this case until the U.S.
7 Supreme Court decides *Beckles*. Dkt. 3. In *Beckles*, the government contends, the Supreme
8 Court will decide whether *Johnson* applies to §4B1.2(a)(2) of the Sentencing Guidelines, and, if
9 so, whether *Johnson* applies retroactively to cases on collateral review in which a defendant is
10 seeking to challenge the district court's Guidelines calculation. *Id.*

11 DISCUSSION

12 Although a trial court has the inherent authority to control its docket, "habeas
13 proceedings implicate special considerations that place unique limits on a district court's
14 authority to stay a case in the interests of judicial economy." *Yong v. I.N.S.*, 208 F.3d 1116, 1120
15 (9th Cir. 2000). The Ninth Circuit has "never authorized, in the interests of judicial economy, an
16 indefinite, potentially lengthy stay in a habeas case." *Id.*

17 The government's motion for a stay (Dkt. 3) should be denied. The government has not
18 shown that a stay, for the sake of judicial economy, is appropriate. *See also Knox v. U.S.*, U.S.
19 District Court for the Western District of Washington case no. 16-5502 BHS, Dkt. 5, and *Miller*
20 *v. U.S.*, U.S. District Court for the Western District of Washington case no. 16-5486 RBL, Dkt.
21 4. It is unclear when the Supreme Court will issue a decision in *Beckles*. Accordingly, judicial
22 economy does not justify what may end up being "an indefinite, potentially lengthy stay" in this
23 habeas case.

1 **ORDER**

2 The United States of America's Motion to Stay Decision in Defendant-Petitioner's
3 Motion Pursuant to 28 U.S.C. § 2255 (Dkt. 3) **IS DENIED.**

4 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
5 to any party appearing *pro se* at said party's last known address.

6 Dated this 1st day of August, 2016.

7 

8 ROBERT J. BRYAN
9 United States District Judge