

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KARL KREIER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

16-cv-430-jdp

Petitioner Karl Kreier has filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255, in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). Dkt. 1. Petitioner has also filed a motion for appointment of counsel, Dkt. 4, and he has asked that the court assist him in obtaining records of his prior convictions in his related criminal case, *United States v. Kreier*, No. 14-cr-110 (W.D. Wis., filed Oct. 29, 2014). Dkt. 71.

As stated in the *Johnson* notice petitioner should have received shortly after he filed his petition, the Federal Defender is currently evaluating petitioner's § 2255 petition and will determine whether his case is appropriate for representation as soon as possible. If the Federal Defender decides to represent petitioner, counsel can obtain the records of his prior convictions for him. But given the volume of *Johnson* petitions that the Federal Defender is currently reviewing, petitioner may not receive an answer right away.

At this point, the court will alert petitioner and the Federal Defender that petitioner's § 2255 petition does not raise a straightforward *Johnson* issue because he was not sentenced under the Armed Career Criminal Act, 18 U.S.C. § 924(e). But, in the court's opinion, it may be beneficial for the Federal Defender to represent petitioner to ensure that the impact of *Johnson* on petitioner's sentence, if any, is fully considered. The petition also prompts the

court to consider whether his Wisconsin conviction for robbery with use of force would qualify as a “crime of violence” under the Career Offender Guideline, U.S.S.G. § 4B1.1.

ORDER

IT IS ORDERED that petitioner Karl Kreier’s motion for appointment of counsel, Dkt. 4, is DENIED as moot.

Entered June 22, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge