

**FILED**  
JAN 4 - 2017  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA

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IN RE )  
 ) Public Administrative Order  
*Johnson v. United States,* )  
135 S. Ct. 2551 (2015) ) No. 17-AO-1-P

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On June 26, 2015, in *Johnson v. United States*, 135 S. Ct. 2551 (2015), the U.S. Supreme Court voided the residual clause of the Armed Career Criminal Act (ACCA) as unconstitutionally vague. There are numerous past ACCA defendants in this district who may benefit from the *Johnson* decision, if it applies retroactively. *Johnson's* retroactivity in ACCA cases was just established by the Supreme Court in *Welch v. United States*, 136 S. Ct. 1257 (2016). There are numerous additional non-ACCA defendants who may benefit from *Johnson* if it applies equally and retroactively to the residual clause contained in § 4B1.2(a)(2) of the U.S. Sentencing Guidelines.

The one-year deadline for seeking *Johnson* relief under 28 U.S.C. § 2255 ran on June 26, 2016. The court recognizes that the numerous defendants potentially affected by *Johnson* filed at least protective § 2255 petitions in order to meet this deadline. The question of whether *Johnson* applies equally and retroactively to guideline cases is currently before the Supreme Court in *Beckles v. United States*, 136 S. Ct. 2510 (2016), which was argued before the Supreme Court on November 28, 2016. The Supreme Court did not issue a decision in *Beckles* prior to January 2, 2017, which is the date the court set for expiration of the stay of further proceedings in Administrative Order No. 16-AO-3-P.

Both the U.S. Attorney and Federal Defender Offices have limited resources for reviewing and briefing numerous closed cases that may warrant retroactive relief under *Johnson*. The court also finds that an extended period for the screening and briefing of such cases is broadly in the interests of justice, would aid the court's eventual review of claims for relief, and would allow time for the law in this difficult area to further clarify.

The court accordingly orders that the parties shall notify the court within thirty (30) days following the Supreme Court's decision in *Beckles*, and, depending on the result in *Beckles*, propose a briefing schedule in pending cases.

Nothing herein shall be construed as an opinion or suggestion that *Johnson* is indeed retroactive, or that it applies retroactively and with equal force to the U.S. Sentencing Guidelines, or that any particular petitioner subject to retroactive application of *Johnson* is necessarily entitled to relief.

DATED this 4th day of January, 2017.

  
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JOHN A. JARVEY, Chief Judge  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA