

## **APPENDIX B**

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

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YERVIN K. BARNETT,	)	
	)	
Petitioner,	)	
	)	
V.	)	No. 17-cv-2548-SHL-dkv
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

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**ORDER GRANTING MOTION UNDER 28 U.S.C. § 2255 TO VACATE,  
SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN  
FEDERAL CUSTODY**

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Before the Court is Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 1), filed on July 28, 2017. Petitioner contends that he is entitled to immediate release in light of the Sixth Circuit's opinion in United States v. Stitt, 2017 WL 2766326 (6th Cir. June 27, 2017), which held that a Tennessee aggravated burglary conviction is not a violent felony under the Armed Career Criminal Act ("ACCA"). Petitioner's sentence was enhanced under the ACCA.

On August 7, 2017, the United States filed a Response (ECF No. 8), conceding that Movant's predicate offenses no longer qualify him as an armed career criminal, and that he is thus entitled to immediate release. The Court agrees with the parties and finds that Movant's sentence was enhanced under the Armed Career Criminal Act ("ACCA") based on a prior conviction for aggravated burglary in Tennessee. Therefore, pursuant to Stitt, the Court hereby **GRANTS** the Motion and **VACATES** Movant's sentence. Re-sentencing shall occur on **August 15, 2017, at 9:30 a.m.**

**IT IS SO ORDERED**, this 9th day of August, 2017.

s/ Sheryl H. Lipman  
SHERYL H. LIPMAN  
UNITED STATES DISTRICT JUDGE

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

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YERVIN K. BARNETT, )  
Petitioner, )  
v. )  
UNITED STATES OF AMERICA, )  
Respondent. )  
)

No. 17-cv-2548-SHL-dkv

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**JUDGMENT**

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**JUDGMENT BY COURT.** This action having come before the Court on Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence (ECF No. 1), filed July 28, 2017,

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that, in accordance with the Order Granting § 2255 Petition (ECF No. 9) filed August 9, 2017, Petitioner's claim is **GRANTED**, and a resentencing was held on August 18, 2017.

APPROVED:

s/ Sheryl H. Lipman  
SHERYL H. LIPMAN  
UNITED STATES DISTRICT JUDGE

August 24, 2017  
Date

**United States District Court  
WESTERN DISTRICT OF TENNESSEE  
Eastern Division**

VERLON SESSION,

Petitioner,

vs.

No. 1:16-cv-1163-JDB  
In Re: 1:13-cr-10039-JDB

UNITED STATES OF AMERICA,

Respondent.

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**ORDER GRANTING MOTION  
UNDER 28 U.S.C. §2255**

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This matter came to be heard August 9, 2017 on the Motion for relief under 28 U.S.C. §2255 filed by the petitioner on July 17, 2016. After review of the petition and the response of the government, the Court finds that the motion should be GRANTED and judgment entered in this case. The court further directs that an amended judgment be entered in criminal action 1:13-cr-10049.

IT IS SO ORDERED this 9<sup>th</sup> day of August, 2017.

**s. J. DANIEL BREEN**  
UNITED STATES DISTRICT JUDGE

United States District Court  
WESTERN DISTRICT OF TENNESSEE  
Eastern Division

**JUDGMENT IN A CIVIL CASE**

VERLON SESSION,

Petitioner,

CASE NUMBER: 1:16-cv-1163-JDB  
IN RE: 1:13-cr-10049-JDB

v.

UNITED STATES OF AMERICA,

Respondent.

**Decision by Court.** This action came before the Court and the issues have been considered and a decision has been rendered.

**IT IS ORDERED AND ADJUDGED** that in accordance with the Order entered in the above-styled matter on 8/9/2017, Petitioner's motion for relief under 28 U.S.C. §2255 is hereby GRANTED, and judgment entered in favor of the petitioner.

**APPROVED:**

s/J. Daniel Breen  
United States District Judge

THOMAS M. GOULD  
CLERK

BY: s/Sonya Pettigrew  
DEPUTY CLERK