

## APPENDIX

APPENDIX A: United States District Court for the Southern District of Iowa,  
Case No. 4:16-cv-00135-SMR-CFB, Order denying 28 U.S.C. § 2255 Motion  
(September 3, 2019)

APPENDIX B: Judgment of the 8th Circuit Court of Appeals Affirming District  
Court Decision, 8th Cir. Case No. 19-3009 (October 5, 2020)

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

WILLIAM LEROY SANDERS,	)	
	)	
Petitioner,	)	
	)	Case No. 4:16-cv-00135-SMR-CFB
v.	)	
	)	ORDER
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**I. INTRODUCTION**

William Leroy Sanders filed this Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 challenging his sentence in *United States v. Sanders*, 4:14-cr-00007-SMR (S.D. Iowa) (“Cr. Case”). He contends his sentence was affected by all parties’ belief that his prior convictions qualified him for enhanced sentencing under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(1). He asserts after *Johnson v. United States*, 135 S.Ct. 2551 (2015) his 2002 conviction for Interference With Official Acts, in violation of Iowa Code § 719.1 (2002), no longer meets the criteria of a “violent felony” for ACCA sentencing purposes, and for that reason his current sentence is illegal. He requests re-sentencing. The government resists his request for relief.

**II. BACKGROUND**

On June 19, 2014, Sanders signed an agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). Cr. Case, ECF No. 45. In that agreement, Sanders agreed to plead guilty to Count One of an indictment charging him with being a felon in possession of ammunition in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2). The Rule 11(c)(1)(C) agreement stipulated the parties would jointly recommend the Court impose a sentence of 180 months’ imprisonment. *Id.* at ¶ 13. On September 23, 2014, the Court sentenced Sanders to 180

months' imprisonment. Cr. Case, ECF No. 62. Sanders filed no appeal of that sentence. On April 26, 2016, Sanders filed this Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255.

Sanders contends his sentence was premised on the parties' understanding that his prior convictions qualified him for sentencing as an armed career criminal. Absent ACCA status, Sanders would have faced a maximum sentence of ten years' imprisonment. See 18 U.S.C. § 924(a)(2). Sanders asserts after the United States Supreme Court invalidated the ACCA's residual clause as unconstitutionally vague in *Johnson*, he no longer qualifies as an armed career criminal. Without the invalidated residual clause, Sanders contends his conviction for Interference With Official Acts is not a predicate violent felony because Interference With Official Acts is not an enumerated offense, 18 U.S.C. § 924(e)(2)(B)(ii), and does not "ha[ve] as an element the use, attempted use, or threatened use of physical force against the person of another," § 924(e)(2)(B)(i), as required by the elements clause. For that reason, Sanders contends his current sentence is illegal.

The government contends Sanders is not entitled to relief because: (1) Sanders defaulted the claim by failing to raise it on direct appeal, (2) Sanders waived the claim by signing the 11(c)(1)(C) agreement, and (3) Sanders' conviction for Interference With Official Acts is not affected by the *Johnson* decision because his conviction is a violent felony under the ACCA's elements clause. ECF No. 9. The parties have fully briefed the issues, and the matter is ready for ruling. Relief is denied for the reasons that follow.

### **III. ANALYSIS**

The issue in this case is whether Sanders' conviction for Interference With Official Acts qualifies as a violent felony under the ACCA and if not, whether any procedural rule of law bars Sanders from getting relief at this stage of the appeal process.

Sanders pleaded guilty to being a felon in possession of ammunition. The base maximum sentence for that crime is ten years' imprisonment. A violator who has three prior convictions for a "violent felony" or "serious drug offense" is subject to a fifteen-year mandatory minimum and a maximum sentence of life under the ACCA. 18 U.S.C. § 924(e)(1). For purposes of this ACCA enhancement, a "violent felony" means a crime punishable by more than one year in prison that

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another [the "elements clause"]; or

(ii) is burglary, arson, or extortion, involves use of explosives [the "enumerated crimes clause"], or otherwise involves conduct that presents a serious potential risk of physical injury to another [the "residual clause"].

18 U.S.C. § 924(e)(2)(B)(i)–(ii).

The parties agree that absent Sanders's conviction for Interference With Official Acts, he does not have three qualifying offenses. If that offense does not qualify as a predicate offense, Sanders's 180-month sentence exceeds the ten-year base maximum sentence set forth in 18 U.S.C. § 922 (g)(1) for being a felon in possession of ammunition. The Court first considers whether Sanders has procedurally defaulted his claim for relief.

#### **A. Procedural Default**

The government contends Sanders's claim for relief pursuant to *Johnson* is defaulted because he conceded his ACCA status at sentencing and did not file a direct appeal. ECF No. 9 at 2. Sanders's current claim relies on a rule of law first set forth in *Johnson*, and he therefore shows the cause and actual prejudice required to raise it now. *See Bousley v. United States*, 523 U.S. 614, 618–21 (1998) (setting forth standard for excusing procedural default). Cause excusing procedural default exists if the claim "is so novel that its legal basis [wa]s not reasonably available to counsel" at the

time of the direct appeal. *Reed v. Ross*, 468 U.S. 1, 16 (1984). *See also, United States v. Snyder*, 871 F.3d 1122, 1127 (10th Cir. 2017), cert. denied, 138 S. Ct. 1696 (2018) (finding *Johnson* claim was not reasonably available to claimant at time of his direct appeal, therefore sufficient to establish cause to excuse procedural default); *Welch v. United States*, 136 S. Ct. 1257, 1268 (2016) (*Johnson* is retroactive to cases on collateral review).

Sanders was sentenced in 2014, prior to the *Johnson* decision. Sanders has established cause for failure to raise the claim in a direct appeal sufficient to overcome the alleged procedural default.

### **B. Effect of Plea Agreement**

Sanders pleaded guilty to Count One of an indictment charging him with being a felon in possession of ammunition in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2). Cr. Case, Plea Agreement, ECF No. 45, at ¶ 1. Under the terms of the plea agreement, the parties stipulated that an appropriate disposition of the case was that Sanders be sentenced to 180 months' imprisonment for Count One. *Id.* at ¶ 13. The government contends Sanders's sentence was not based on the ACCA, but on the contractual agreements in the plea agreement and he should remain bound by that agreement. ECF No. 9 at 5.

“While ‘the circumstances under which a guilty plea may be attacked on collateral review’ are strictly limited, ‘it would be inconsistent with the doctrinal underpinnings of habeas review to preclude [a] petitioner from relying on [a new rule of constitutional law] in support of his claim that his guilty plea was unconstitutionally invalid.’” *United States v. Peppers*, 899 F.3d 211, 225 (3d Cir. 2018) (quoting *Bousley v. United States*, 523 U.S. 614, 621 (1998)). “[W]hen a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court renders illegal a sentence that was imposed based on a Rule 11(c)(1)(C) plea agreement, a defendant who

otherwise can successfully challenge that sentence in a § 2255 motion cannot be held to the unlawful term of imprisonment.” *Id.* at 226. See also, *United States v. Pam*, 867 F.3d 1191, 1199 (10th Cir. 2017) (explaining that when a plea agreement clearly relies on the ACCA “to establish the agreed-upon term of imprisonment, the binding nature of the agreement does not prevent us from considering whether *Johnson* impacts the constitutionality of [the sentence imposed].”)

In *United States v. Ritchison*, 887 F.3d 365 (8th Cir. 2018), the United States Court of Appeals for the Eighth Circuit discussed *Johnson* in the context of an 11(c)(1)(C) agreement. Ritchison was sentenced after signing an 11(c)(1)(C) agreement. Ritchison’s plea agreement stipulated that if the ACCA applied he would receive a sentence of fifteen years and if the Court found the ACCA did not apply he would receive a sentence of ten years. The Court determined the ACCA applied and sentenced Ritchison to fifteen years imprisonment. After the *Johnson* decision, Ritchison sought relief under § 2255. The government conceded Ritchison’s two burglary convictions no longer qualified as ACCA predicate offenses and Ritchison should be resentenced. Ritchison asked the Court to resentence taking into account all sentencing options. The Court instead imposed the ten year sentence the parties had agreed to impose if the ACCA was found not to apply.

*Ritchison* did not bar relief because the defendant had signed an 11(c)(1)(C) agreement. Ritchison’s options for relief were limited because he was sentenced on one count of conviction and the parties had already stipulated to the sentence that should be imposed if the ACCA did not apply. The Court therefore enforced the parties’ agreement. Unlike Ritchison, the parties in this case made no agreement as to what sentence should be imposed if the ACCA did not apply.

Had Sanders not met the criteria for armed career criminal, the maximum sentence he could have been given was ten years’ imprisonment. See 18 U.S.C. § 924(a)(2). ACCA status increased the statutory penalty to a mandatory minimum sentence of 15 years’ and a maximum sentence of life

imprisonment. 18 U.S.C. § 924(e). If Sanders can show he was sentenced using the invalidated residual clause of the ACCA, and he no longer meets the ACCA criteria, his current sentence is illegal and he cannot be held to the unlawful term of imprisonment. The Court therefore finds Sanders's 11(c)(1)(C) agreement does not bar him from raising his claim.

### **C. ACCA Framework**

Sanders's plea and its stipulated sentencing recommendation were premised on the understanding he qualified for sentencing under the ACCA. "The ACCA applies only when a defendant is convicted under § 922(g) and has three prior convictions for violent felonies or serious drug offenses. 18 U.S.C. § 924(e)(1)." *United States v. Lindsey*, 827 F.3d 733, 738 (8th Cir. 2016). Prior to invalidation of the residual clause, a prior offense qualified as a violent felony if it was "punishable by imprisonment for a term exceeding one year" and it met the criteria of the elements, enumerated, or residual clauses of 18 U.S.C. § 924(e)(2)(B).

The Supreme Court in *Johnson* invalidated the ACCA's residual clause and made its rule retroactive on collateral review in *Welch v. United States*, — U.S. —, 136 S.Ct. 1257, 1264-65 (2016). In order to be entitled to relief on a claim based on *Johnson*, § 2255 claimants must "show by a preponderance of the evidence that the residual clause [rather than the enumerated or elements clause] led the sentencing court to apply the ACCA enhancement." *Walker v. United States*, 900 F.3d 1012, 1015 (8th Cir. 2018). "Whether a claimant meets this burden is usually a factual question for the district court, which reviews the record to determine whether the sentencing court specified which ACCA clause it used." *Lofton v. United States*, 920 F.3d 572, 574–75 (8th Cir. 2019).

In making the factual determination, "[t]he district court should first review the sentencing record. For example, 'comments or findings by the sentencing judge,' unobjected-to statements in the PSR, or 'concessions by the prosecutor' may show which ACCA clause was the basis of an

enhancement.” *Golinveaux v. United States*, 915 F.3d 564, 567–68 (8th Cir. 2019). If the sentencing record is inconclusive “the second step is to determine the relevant legal environment at the time of sentencing.” *Id.* “Determining the legal environment requires a ‘legal conclusion’ about the controlling law at the time of sentencing.” *Id.*

To be entitled to relief, therefore, Sanders must show the residual clause led to his ACCA sentence.

#### **D. Sentencing Record**

Sanders was sentenced based on a Rule 11(c)(1)(C) agreement stipulating to an appropriate sentence. There was, therefore, no reason for the Court to specify whether Sanders’s conviction for Interference With Official Acts was a predicate offense under the enumerated, elements, or residual clause of the ACCA. The sentencing record discloses, however, that the Court sentenced Sanders after considering the forceful and violent nature of his prior convictions, including the 2002 conviction for Interference With Official Acts, in violation of Iowa Code § 719.1 (2002).

Both the preliminary and final presentence investigation reports (“PSIR”) filed in the federal criminal case state Sanders was convicted of “Interference With Official Acts Causing Serious Injury” to which he pled guilty and was sentenced to five years’ imprisonment. PSIR, Cr. Case, ECF Nos. 53 and 59 at ¶ 15. The same paragraph of the PSIR states Sanders was convicted of Iowa Code § 719.1(1) (2001) “interference with official acts 719.1(1), a Class D Felony,” a slightly different offense. *Id.* The state court records submitted by Sanders show he was originally charged in Count One with assault of a peace officer in violation of 708.3A. Trial Information, ECF No. 3-1 at 2.

The trial information charged that on April 1, 2002, Sanders used a Rottweiler dog as a dangerous weapon with intent to inflict serious injury upon a peace officer “to wit: the Defendant had control of the Rottweiler dog while peace officers were attempting to take the Defendant into



custody the Defendant released the dog and gave a verbal [command] for the animal to attack the peace officers.” *Id.* The trial information was subsequently amended in exchange for Sanders’s plea of guilty, and Sanders was charged instead with Interference With Official Acts in violation of Iowa Code § 719.1(1). *Id.* at 5. The amended trial information does not state the facts underlying the amended charge, and Sanders pled guilty, obviating the need for jury instructions.

The federal PSIR describes the facts underlying Sanders’s 2002 conviction as follows: “According to judicial records, on April 1, 2002, the defendant called [H.M.], the mother of his three-year-old daughter, [P.S.] and told her he was on his way home to either beat her up or kill her. [H.M.] then contacted LEO<sup>1</sup>. When [H.M.] saw the defendant approaching the apartment, she took [P.S.] and a cordless phone and went out the back door. The defendant confronted [H.M.] outside the building and ordered her to go back inside. The defendant grabbed her by the hair and threw her down to the ground. ....The defendant was ordered to surrender to LEO custody, but he refused. The defendant yelled profanities. He eventually released the dog and gave a verbal command for the animal to attack the LEO.” PSIR, ECF No. 59 at 15-16, ¶ 51.

Sanders did not object to the statement in the PSIR that he pled guilty to Interference With Official Acts Causing Serious Injury. He conceded the conviction qualified him for enhanced sentencing under the ACCA. He filed an objection to factual assertions contained in the description of the offense, specifically the allegations that he threw down [H.M.] and that he caused an injury to a child. Cr. Case, ECF No. 55, at 2. Although Sanders objected to some of the facts set forth in paragraph 51 of the PSIR, he did not specifically object to the allegation he had control of a Rottweiler dog, which he then released and gave a verbal command to attack a law enforcement

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<sup>1</sup>Law enforcement officers.

officer. He did not object to the PSIR's statement he was convicted of Interference With Official Acts Causing Serious Injury, or attempt to distinguish that conviction from a conviction for the lesser offense of Interference with Official Acts § 719.1(1), a Class D Felony.

It is true that, "where the PSR expressly relies on police reports ... that would be inadmissible at sentencing under the modified categorical approach, the PSR's factual assertions, even if a defendant does not object to them, are not an adequate basis for affirming the defendant's sentence." *United States v. Thomas*, 630 F.3d 1055, 1057 (8th Cir. 2011) (quotations and alterations omitted). However, in cases where the PSIR described prior offense conduct without stating its sources, "we have held that failure to object relieved the government of its obligation to introduce at sentencing the documentary evidence *Taylor* or *Shepard* requires." *United States v. McCall*, 439 F.3d 967, 974 (8th Cir. 2006) (en banc) (citations omitted), abrogated in part on other grounds by *Begay v. United States*, 553 U.S. 137, 128 S.Ct. 1581 (2008).

As noted, Sanders did not specifically object to the allegation he had control of a Rottweiler dog, which he commanded to attack a law enforcement officer. He conceded the conviction qualified him for an enhanced sentence under the ACCA. By not specifically objecting to relevant facts set forth in paragraph 51 of the PSIR, and "by conceding that his [prior felony conviction] was a crime of violence, [Sanders] relieved the government of its obligation to submit court documents to establish at sentencing, using the modified categorical approach, that [Sanders's] prior conviction was a crime of violence." *United States v. Garcia-Longoria*, 819 F.3d 1063, 1067 (8th Cir. 2016).

At Sanders's sentencing, the Court stated it was relying on the uncontested portions of the presentence report. It noted the sentence was imposed in part because of Sanders's horrifically long and violent criminal history. The Court discussed Sanders's history of possessing dangerous weapons, including axes and dogs. The Court stated although Sanders objected to some of the facts

outlined in the PSIR related to his 2002 conviction, he did not contest he threatened to kill the woman, nor that, as she was attempting to flee he grabbed her by the hair and repeatedly punched her. The Court found that when police tried to arrest him for that assault, he confronted them with an axe and a Rottweiler and ordered the Rottweiler to attack the officers. Thus the record established the key facts underlying Sanders' currently contested predicate ACCA conviction.<sup>2</sup>

***A. Modified Categorical Approach***

"When assessing whether a state statute qualifies as a "violent felony" for the purposes of the ACCA, we employ the categorical approach, looking only to the elements of the statute in question." *United States v. Libby*, 880 F.3d 1011, 1014 (8th Cir. 2018). If a statute sets forth a single set of elements to define a single crime courts do not consider "defendant's real world conduct." *Id.* If a statute lists crimes in the alternative it is considered "divisible" and courts may look at a limited set of documents to determine which crime defendant committed. *Id.*

Interference With Official Acts is not an "enumerated offense" because it is not burglary, arson, or extortion, and does not involve the use of explosives. In order to qualify as an ACCA offense, Sanders' predicate conviction therefore must "have as an element the use, attempted use, or threatened use of physical force against the person of another." *Id.* The phrase physical force in this statute means "violent force-that is-force capable of causing physical pain or injury to another person." *Johnson v. United States*, 559 U.S. 133, 140 (2010).

In deciding whether Sanders' conviction meets this criteria the Court first looks to the language of the Iowa statute. Iowa Code § 719.1(1) (2002) sets out the crime of Interference With Official Acts as follows:

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<sup>2</sup>The Court suggests that if either party seeks additional review of the Court's decision in this matter, that it order a certified copy of the sentencing transcript.

A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. **If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class “D” felony.**

(Emphasis added).

To be convicted of this offense, the jury must be convinced of the following elements:

1. On or about the day of month, 20\_\_\_\_(year) , the defendant:
  - a. knew (name) was a [peace officer] [fire fighter] who was (describe official act).
  - b. knew (name) was serving or executing [civil or criminal process] [an order of a court].
2. The defendant knowingly resisted or obstructed (name) in (describe official act).
3. The defendant [inflicted a [serious injury] [bodily injury]] [attempted to inflict serious injury] [displayed a dangerous weapon] [was armed with a firearm].

*Iowa Criminal Jury Instruction 1910.1, Interference With An Official Act.*

To qualify as a class D felony offense, the Interference With Official Acts must inflict or attempt to inflict serious bodily injury, must involve the display of a dangerous weapon, or the individual must be armed with a firearm. Iowa Code § 719.1(1). The Iowa statute sets forth different ways to commit the offense of interference with official acts. Sanders argues that it can be committed in at least one way that does not require the use of violent force. In deciding whether

Sanders’s conviction for Interference With Official Acts under that Iowa statute has as an *element* the use, attempted use, or threatened use of physical force against the person of another, the Court must first decide whether the statute is divisible. If the statute is not divisible, and a conviction can result without the use of violent force, the conviction cannot be used to trigger ACCA status. *See, e.g., United States v. McArthur*, 850 F.3d 925, 937 (8th Cir. 2017).

In deciding whether a statute is divisible, the issue is whether the statute sets forth alternative elements, or alternative factual means of satisfying a certain element. As the Supreme Court has noted, it can be difficult to determine whether the statute of conviction sets forth alternative means or alternative elements, but other approved state documents can clarify the issue. *Descamps v. United States*, 570 U.S. 254, n. 2 (2013). “[T]he divergence of outcomes after *Mathis*, suggests that the ‘elements or means’ inquiry is not quite as easy as the Supreme Court thought.” *United States v. Steiner*, 847 F.3d 103, 120 (3d Cir. 2017).

“To distinguish between elements and means, federal sentencing courts should look at ‘authoritative sources of state law’ such as ‘a state court decision [that] definitively answers the question,’ or the statute’s text. If necessary, the court may ‘peek’ at the record of the prior conviction, but only to determine if the statutory alternatives are elements or means.” *United States v. Lamb*, 847 F.3d 928, 931 (8th Cir. 2017).

Sanders was charged with “Interference With Official Acts in violation of Iowa Code section 719.1(1), a Class D Felony” without reference to any subsection of the felony clause, and he contends that demonstrates the felony part of the statute is indivisible. The Iowa Court of Appeals, however, refers to the subsections of Iowa Code § 719.1(1) felony clause as elements. *See, e.g., State v. Hall*, No. 15-1467, 2016 WL 4543891 (Iowa Ct. App. Aug. 31, 2016) (referring to display of a dangerous weapon as an “element” of the offense); *State v. Campbell-Scott*, No. 16-0472, 2017

WL 512590 (Iowa Ct. App. Feb. 8, 2017) (stating conviction of interference with official acts while possessing a firearm required “proof that Campbell-Scott possessed” a firearm as an *element* of the statutory crime); *State v. Chestnut*, No. 12-0040, 2012 WL 4900477 (Ia. Ct. App. Oct. 17, 2012) (referring to the charge of “interference with official acts with a dangerous weapon” ). In the cases set forth above, it appears the defendants were charged with specific subsections of the offense, not the offense as a whole. *See also, United States v. Malloy*, 614 F.3d 852, 860 (8th Cir. 2010) (finding a conviction for interference with official acts causing bodily injury under the Iowa statute is a crime of violence because it has as an element the use or attempted use of force).

The Court has found no definitive Iowa case stating whether the subsections of the statute are means or elements. Because Iowa courts have referred to the subsections of the offense as elements, however, the court finds the statute is divisible. The relevant records show Sanders was convicted of interference with official acts by inflicting or attempting to inflict serious injury. Sanders’s conduct fits within the force clause of the ACCA because it had as an element the use, attempted use, or threatened use of physical force against the person of another, and there was no reason to rely on the broader language of the residual clause. Sanders fails to show the Court relied on the residual clause in deciding the 2002 conviction was a predicate ACCA offense. His claim for relief, based on *Johnson v. United States*, 135 S.Ct. 2551 (2015), therefore is denied.

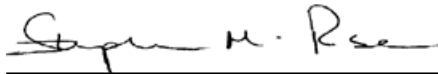
#### IV. CONCLUSION AND SUMMARY

Based on its review, the Court concludes the files and records of this case demonstrate Sanders is not entitled to a hearing or entitled to any relief on his claims. *See* 28 U.S.C. § 2255. **The Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 is denied, and the case is dismissed.**

Pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings in the United States Courts, the Court must issue or deny a Certificate of Appealability when it enters a final order adverse to the movant. District courts have the authority to issue certificates of appealability under 28 U.S.C. § 2253(c) and Fed. R. App. P. 22(b). A certificate of appealability may issue only if the defendant “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing is a showing “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (quotation marks and citations omitted). Sanders has met the standard for issuance of a certificate of appealability. The Court issues the certificate of appealability.

**IT IS SO ORDERED.**

Dated this \_\_3rd\_\_ day of September, 2019.

A handwritten signature in black ink, appearing to read "Stephanie M. Rose", written over a horizontal line.

STEPHANIE M. ROSE  
UNITED STATES DISTRICT JUDGE

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 19-3009

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William Leroy Sanders

*Petitioner - Appellant*

v.

United States of America

*Respondent - Appellee*

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Appeal from United States District Court  
for the Southern District of Iowa - Des Moines

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Submitted: September 25, 2020

Filed: October 5, 2020

[Unpublished]

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Before COLLOTON, BENTON, and KOBES, Circuit Judges.

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PER CURIAM.

William Leroy Sanders appeals after the district court<sup>1</sup> denied his 28 U.S.C. § 2255 motion, and granted a certificate of appealability on his claim that his sentence

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<sup>1</sup>The Honorable Stephanie M. Rose, United States District Judge for the Southern District of Iowa.



under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), is invalid in light of *Johnson v. United States*, 576 U.S. 591, 606 (2015) (invalidating residual clause of ACCA as unconstitutionally vague). Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

This court concludes Sanders did not meet his burden to show by a preponderance of the evidence that the residual clause led the sentencing court to apply the ACCA enhancement. *See Dembry v. United States*, 914 F.3d 1185, 1187 (8th Cir. 2019) (standard of review); *Golinveaux v. United States*, 915 F.3d 564, 567-68 (8th Cir. 2019) (movant bringing *Johnson* claim must show by preponderance of evidence that residual clause led sentencing court to apply ACCA enhancement).

The judgment is affirmed.

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