

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 17-12238-E

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BRODERICK C. JAMES,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Georgia

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**ORDER:**

Broderick C. James seeks a certificate of appealability to appeal the denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. His motion for a certificate of appealability is DENIED because he has failed to make a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

/s/ William H. Pryor Jr.  
UNITED STATES CIRCUIT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**BRODERICK C. JAMES**

v.

**UNITED STATES OF AMERICA**

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**Criminal Action  
No. 1:93-CR-549-1-ELR**

**Civil Action  
No. 1:16-CV-2101-ELR**

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**ORDER**

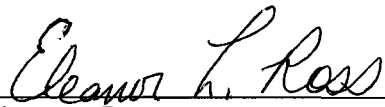
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This matter is before the Court for consideration of Petitioner's motion to vacate his sentence under 28 U.S.C. § 2255. Petitioner concedes that the argument he makes – that the Supreme Court's opinion in Johnson v. United States, 135 S. Ct. 2552 (2015), rendered his sentence, imposed under the career offender provision of the United States Sentencing Guidelines, unlawful— is contrary to the Eleventh Circuit's opinion in In re Griffin, 823 F.3d 1350 (11<sup>th</sup> Cir. 2016). Griffin holds that even the former (mandatory) Sentencing Guidelines, under which this Petitioner was sentenced, are not subject to vagueness challenges under the Due Process Clause. Griffin at 1355. The Court agrees. This conclusion was not altered by the Supreme Court's recent opinion in Beckles v. United States, 580

U.S. \_\_\_\_, No. 15-8544 at 5 (2017) (holding that because the Guidelines “merely guide the exercise of a court’s discretion in choosing an appropriate sentence within the statutory range, ...the Guidelines are not subject to a vagueness challenge under the Due Process Clause”). Thus, the void-for-vagueness doctrine applied in Johnson, does not apply to Petitioner’s case. Petitioner’s motion to vacate his sentence is denied.

Because Petitioner’s motion is foreclosed by binding Eleventh Circuit precedent, the Court finds that Petitioner has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). As such, the Court declines to issue a Certificate of Appealability.

**SO ORDERED**, this 22<sup>nd</sup> day of March, 2017.

  
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Eleanor L. Ross  
United States District Judge  
Northern District of Georgia