

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL ACTION NO. 14-217-2
	:	CIVIL ACTION NO. 18-1170
	:	
KEITH NAPOLEAN WILLIAMS	:	

MEMORANDUM AND ORDER

Defendant/Petitioner has filed a Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct a Sentence by a Person in Federal Custody. Defendant/Petitioner received a sentence of 125 months imprisonment, plus supervised release, and did not file a direct appeal after his sentence. It appears that under his guilty plea agreement with the Government, he waived any right to file a direct appeal.

The §2255 Petition was filed on March 19, 2018. The Government has filed a comprehensive Memorandum in opposition. Defendant/Petitioner supplied supplemental materials dated May 29, 2018 and June 11, 2018 and July 16, 2018. All of Petitioner's filings have been reviewed by the Court.

Defendant/Petitioner's guilty plea was to three counts, Count I for robbery which interfered with interstate commerce, Count II for using and carrying a firearm during and in relation to a crime of violence, and Count IV, a felon in possession of firearm by an armed career criminal. All of these charges arose from the Defendant's participation in the armed robbery of the Wireless Factory store on or about January 11, 2014.

Petitioner basically makes two claims. First, that his counsel at the time that he pled guilty and at the sentencing was not competent, and secondly, that he was improperly classified as an armed career criminal under the principles of Johnson v. United States, 135 S. Ct. 2551

(2015).

In the first place, when Defendant was sentenced, he did not challenge the armed career criminal designation, and as noted above, did not take an appeal. Therefore, there is a procedural default and this Court cannot grant any relief on this ground. However, the Court notes from the review of the papers, that Defendant did qualify as an armed career criminal, because he had three separate robbery convictions in Pennsylvania state courts.

As to the claim of incompetent counsel, at the time of sentencing, Petitioner, under oath, was asked whether he was satisfied with his counsel's representation and answered "yes, your Honor."

In any event, under Strickland v. Arizona, 446 U.S. 668 (1984), Defendant/Petitioner must show not only that counsel was not competent, but also that the failure was prejudicial. In this case, Defendant/Petitioner cannot show any prejudice because of the overwhelming nature of the evidence against him. In addition to the fact that Defendant pled guilty, because of his cooperation, the Government filed a motion for a downward departure, and Petitioner's sentence reflects his receiving a substantial downward departure from the mandatory minimums that would have applied if Petitioner had not cooperated with the Government and earned a departure motion.

It is clear from the record that the Defendant's motion is without any merit.

ORDER

For the reasons stated above, and as further detailed in the Government's brief in opposition to the motion (ECF 247), the Motion Under §2255 (ECF 242) is **DENIED** with prejudice.

There are no grounds for a certificate of appealability.

The Clerk shall close this case.

BY THE COURT:

/s/ Michael M. Baylson

Dated: 11/27/18

MICHAEL M. BAYLSON, U.S.D.J.