

MANDATE

D. Conn.
12-cv-1825
Underhill, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of August, two thousand sixteen.

Present:

Jon O. Newman,
Rosemary S. Pooler,
Susan L. Carney,
Circuit Judges.

Al-Malik Fruitkwan Shabazz, AKA Edward Levi
Singer,

Petitioner,

v.

16-1566

United States of America,

Respondent.

Petitioner moves for leave to file a successive 28 U.S.C. § 2255 motion. He argues that, in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), the sentencing enhancement he received under the Armed Career Criminal Act, 18 U.S.C. § 924(e), is no longer valid. Upon due consideration, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the proceeding is TRANSFERRED to the district court. *See* 28 U.S.C. § 1631.

Since this Court has only determined that Petitioner has made a prima facie showing that he has satisfied the successive motion requirements, *see* 28 U.S.C. § 2244(b)(3)(C), the district court is directed to address, as a preliminary inquiry under § 2244(b)(4), whether the Supreme Court's decision in *Johnson* entitles Petitioner to relief. *See Quezada v. Smith*, 624 F.3d 514, 521-22 (2d

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Cir. 2010) (discussing prima facie standard); *Bell v. United States*, 296 F.3d 127, 128 (2d Cir. 2002) (“the prima facie standard [applies to] our consideration of successive habeas applications under § 2255 . . .”).

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

The signature of Catherine O'Hagan Wolfe is written in black ink over a circular seal. The seal is red and blue, with the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom. The signature is written in a cursive style.

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

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