

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	CRIMINAL No. 2:11-CR-216-DBH
)	CIVIL No. 2:16-CV-346-DBH
CHARLES H. CASEY, JR.)	
)	
DEFENDANT/PETITIONER)	

ORDER ISSUING CERTIFICATE OF APPEALABILITY

On November 3, 2016, I **DENIED** Casey’s motion to correct his sentence under 28 U.S.C. § 2255 (ECF No. 68). In accordance with Rule 11 of the Rules Governing Section 2255 Cases in the United States District Courts and 28 U.S.C. § 2253(c)(2), however, I hereby issue a certificate of appealability finding that Casey’s petition contains a substantial showing of the denial of a constitutional right. Specifically, Casey’s petition raises the following issues: (1) whether the retroactive application of Johnson v. United States, 135 S. Ct. 2551 (2015), allows any petitioner serving an ACCA sentence to have his qualifying “violent felony” convictions re-examined even if those convictions appear to fall under the ACCA’s enumerated clause, 18 U.S.C. § 924(e); and (2) if so, whether Mathis v. United States, 136 S. Ct. 2243 (June 23, 2016), has effectively overruled the First Circuit’s decision in United States v. Duquette, 778 F.3d 314 (1st Cir. 2015), that a Maine burglary conviction, 17-A M.R.S.A. § 401, qualifies as a violent felony under the ACCA’s enumerated clause, 18 U.S.C. § 924(e).

SO ORDERED.

DATED THIS 9TH DAY OF NOVEMBER, 2016

/s/D. BROCK HORNBY

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE