

No. 17-8663

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IN THE SUPREME COURT OF THE UNITED STATES

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ANTHONY S. HALL, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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**PETITIONER'S SUPPLEMENTAL BRIEF**  
IN SUPPORT OF  
PETITION FOR WRIT OF CERTIORARI

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## **REVIEW OF FACTS AND PROCEEDINGS**

Defendant-Appellant Anthony Hall, Jr. has appealed from his conviction and sentence entered by the United States District Court for the Northern District of Iowa on December 7, 2016. Hall's sentence of 360 months imprisonment included enhancements for Armed Career Criminal and Career Offender.

Hall's status as ACC and career offender arise in part from his conviction for Robbery Second Degree in Texas in 2002, under Section 29.02 of the Texas Penal Code. Hall does not dispute the conviction, but instead suggests that it does not qualify as a "violent felony" for purposes of the ACCA, nor as a "crime of violence" for purposes of the Sentencing Guidelines, U.S.S.G. § 4B1.2(a) and U.S.S.G. § 2K2.1(a).

A panel of the Eighth Circuit Court of Appeals affirmed Hall's conviction and sentence.

Hall's conviction was affirmed by the Eighth Circuit Court of Appeals on December 14, 2017. The decision is reported at United States v. Anthony Hall, Jr., 877 F.3d 800 (8th Cir. 2017). Hall's petition for rehearing was denied. A Petition for Writ of Certiorari was filed April 23, 2018 and docketed April 27, 2018.

## ADDITIONAL AUTHORITY

Before Johnson v. United States, 135 S. Ct. 2251 (2015) was decided, the Texas offense of Robbery Second Degree under Texas Penal Code § 29.02 qualified as a violent felony under the “residual clause” of the ACCA. United States v. Davis, 487 F.3d 282, 285-87 (5<sup>th</sup> Cir. 2007). Clearly, that holding now has been overruled by Johnson.

A panel of the U.S. Court of Appeals for the Fifth Circuit recently has ruled that Texas Penal Code § 29.02 does not qualify as a violent felony under the ACCA. United States v. Burris, --- F.3d ---, 2018 WL 3430086 (5<sup>th</sup> Cir. July 16, 2018). The Court specifically distinguished United States v. Hall, 877 F.3d 800, 808 (8th Cir. 2017), the Eighth Circuit’s ruling in the instant case, as the product of “limited analysis” and “unpersuasive.” Burris, at \*10. Mr. Burris’s sentence was vacated and the case was remanded for resentencing. Id.

Petitioner respectfully requests the Court grant his Petition in light of this authority, and the resulting competing positions of the Eighth and Fifth Circuit Courts of Appeal.

Respectfully submitted,



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