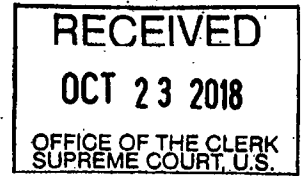


IN THE
UNITED STATES SUPREME COURT



No. 18-6025

Rene Borrero,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

MOTION PURSUANT TO S. Ct. R. 15.8
IN LIGHT OF STOKELING V. UNITED STATES, No. 17-5554

RENE BORRERO #67381-018
FEDERAL CORRECTIONAL INSTITUTION
PO. BOX. 1032
COLEMAN, FLORIDA 33521 - 1032

CONCISE STATEMENT OF THE FACTS

Petitioner is proceeding pro-se in the above captioned case and was issued a docketing statement and Rule 12.3 .. notice on September 18, 2018. Petitioner's writ of cert raises the identical issue in the Supreme Court's case of Stokeling v. United States, No. 17-5554 and presented the same question.* Specifically, review was granted after the district court determined that Stokeling's conviction for Florida robbery passed a "robbery by sudden snatching" - statute in 1999 didn't qualify as a violent felony under the Armed Career Criminal Act. 18 U.S.C. § 924(e), because it did not require sufficient force to constitute a violent felony. The district court therefore, didn't enhance ... Stokeling's sentence. The Eleventh Circuit determined that, however is foreclosed by United States v. Fritts, 841 F.3d 937 (11th Cir. 2016), which specifically rejected the argument that the sudden-snatching statute changed the - elements of florida robbery.

Should this court decide in Stokeling's favor, the outcome will have a constitutional impact in Petitioner's case. Whereas, if the Florida Robbery conviction in this case is overturned, Petitioner's sentence will exceed the statutory maximum sentence of 10 years, rendering his .. sentence illegal.

* Question(s) Presented: Is a state robbery offense that includes "as an element" the common law requirement of overcoming "victim resistance" categorically a "violent felony" under the only remaining definition of that term in the Armed Career Criminal Act, 18 U.S.C. § 924 (e)(2)(B)(i) (an offense that "has an element the use, attempted use, or threatened use of physical force against the person of another"), if the offense has been specifically interpreted by state appellate courts to require only slight force to overcome resistance?

The Eleventh Circuit has considered the impact of the Court's upcoming decision in Stokeling and has .. issued orders granting a stay of the briefing schedule in order to promote conservation of valuable judicial resources. See Att A (United States v. Daniels, U.S.D App. LEXIS 21265 (11th Cir. July 31, 2018). Petitioner moves this Honorable Court to consider this cause under Rule __, and issue the writ accordingly should the ... Court decide Stokeling in favor of the defendant.

10/09/2018



RENE BORRERO #67381-018

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CERTIFICATE OF SERVICE

Petitioner certifies under penalty of perjury that he mailed a copy of this motion to the Solicitor Gen On 10/10/2018, per the prison mailbox rule under - 28 U.S.C. § 1746. 950 PENNSYLVANIA AVENUE ROOM 5616 WASHINGTON, D.C. 20530-0001.



RENE BORRERO #67381-018

ATL

UNITED STATES OF AMERICA, Plaintiff - Appellee, versus SHANE DANIELS, Defendant - Appellant.

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

2018 U.S. App. LEXIS 21265

No. 18-11126-EE

July 31, 2018, Filed

Editorial Information: Prior History

Appeal from the United States District Court for the Middle District of Florida.

Counsel For United States of America, Plaintiff - Appellee: Yvette Rhodes, U.S. Attorney Service - Middle District of Florida, U.S. Attorney's Office, Tampa, FL.

For Shane Daniels, Defendant - Appellant: Irina Hughes, Michelle Yard, Rosemary Cakmis, Donna Lee Elm, Federal Public Defender's Office, Orlando, FL.

Judges: Beverly B. Martin, UNITED STATES CIRCUIT JUDGE.

Opinion

Opinion by: Beverly B. Martin

Opinion

ORDER:

Appellant's motion to stay the briefing schedule pending the United States Supreme Court's decision in Stokeling v. United States, 138 S. Ct. 1438, 200 L. Ed. 2d 716 is GRANTED. Appellant's brief shall be due 40 days after the Supreme Court issues its opinion in Stokeling.

/s/ Beverly B. Martin

UNITED STATES CIRCUIT JUDGE