

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Wayne Thomas — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

11th Cir. Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Wayne Thomas
(Your Name)

FCC Coleman - Medium
(Address)

P.O. Box 1032, Coleman, FL 33521
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Does the Florida Robbery 812.13 "meet use of force" as defined in Johnson v. United States ___ U.S. ___ (2010)? Petitioner requests a GVR in light of Stokeling.

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 13, 2017.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL

Constitutional Amendment 5-----Pg. 5

STATUTORY PROVISIONS

Florida Statute 812.13-----Pg. 5,6

§21 U.S.C. 841(A)(1)-----Pg. 5

§21 U.S.C. 841(A)(1), (b)(1)(A)(iii)-----Pg. 5

§21 U.S.C. 846-----Pg. 5

§18 U.S.C. 2-----Pg. 5

§18 U.S.C. 922(g)(1)-----Pg. 5

§18 U.S.C. 924(E)-----Pg. 5

Edling v. United States __F.3d__ (2018)-----Pg. 6

Geozos v. United States, 870 F.3d 890 (2017)-----Pg. 6

United States v. Winston, 850 F.3d 677 (4th Cir. 2017)---Pg. 6

Stokeling v. United States No. 17-5554-----Pg. 6

Welch v. United States, 136 S. Ct. 1265-----Pg. 6

STATEMENT OF THE CASE

On January 21st, 2016, petitioner was indicted on a multi count indictment with numerous co-defendants, petitioner was charged with conspiracy to distribute 280 grams of crack cocaine, §§21 U.S.C. 841(A)(1), (b)(1)(A)(iii) and 846 (count 3); Possession with intent to distribute, 28 grams or more of crack cocaine, in violation of §§ 21 U.S.C. 841(A)(1), (b)(1)(B)(iii) and §18 U.S.C. 2 (Count 6); using and carying a firearm during and in relation to and possessing a firearm in furtherance of, a drug trafficking crime, in violation of §18 U.S.C. 924(C) (1)(A)(i) (Count 7); and possessing a firearm and amunition after previously having been convicted of a felony offense in violation of §18 U.S.C. 922(g)(1) and 924(E) (Count 8) id. Petitioner plead guilty on November 1st, 2016, based on a written plea agreement to counts 3 and 8 of petitioners indictment. Sentencing took place on February 17th, 2017. Petitioners attorney prejudiced him when during direct appeal and sentencing the attorney failed to object to the 812.13 Robbery by Sudden Snatching being used to enhance the sentence given to the petitioner. Subsequently he was sentenced to 216 months with 8 years supervised release. Petitioner appealed and that was denied. He requests for an extension, because he did not receive the transcripts nor notification of his denial until May, an extension had been requested, which recieved no response previously.

REASONS FOR GRANTING THE PETITION

Petitioners 1996 Robbery by Sudden Snatching conviction would no longer qualify based on *Stokeling v. United States* No. 17-5554 April 2, 2018. In Which the court granted that petitioners ACCA and Career Offender enhancements are in conflict with the 9th Cir. *United States v. Edling* __ F.3d __ (2018), *United States v. Geozos* 870 F.3d 890 (2017), *United States v. Yates* 866 F.3d 677 (6th Cir., 2017). ~~Geozos stated the Florida Robbery does not meet the elements to~~ qualify for an ACCA enhancement. Since then the 4th Cir. in *United States v. Winston* 850 F.3d 677 (2017) said that Robbery could be committed with little to no violence. The circuits are in complete split with the Robbery issue and it continues to grow more and more. Petitioner is requesting a remand in light of *Stokeling v. United States* No. 17-5554 Cert. granted (April 2nd, 2018) based on the fact petitioners prior 1996 Robbery conviction does not qualify for the enhancement.

Petitioners enhancement for ACCA and the Career Offender is a Due Process violation that if left uncorrected would prejudice petitioner, *Stokeling v. United States* would clarify the issue in its entirety granting certiorari and remanding back to the district court would be the appropriate remedy in this particular situation because petitioner has exactly the same issue as *Stokeling* and *Welch v. United States*, 136 S. Ct. 1265 (2016) stayed pending the decision in *Stokeling*.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wayne Thomas

Date: 8-16-2018