

No. 18-6612

IN THE SUPREME COURT OF THE UNITED STATES

JAMES PINKNEY, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 14-24) that the court of appeals erred in determining that his prior convictions for robbery, in violation of Illinois law, were convictions for "violent felon[ies]" under the elements clause of the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e) (2) (B) (i). Petitioner appears to argue that Illinois robbery may be committed by using force sufficient to overcome resistance, see, e.g., Pet. 12-13, 15-17, 22-23, and that an offense that may be committed in that manner does not "ha[ve] as an element the use, attempted use, or threatened use of physical force against the person of another," 18 U.S.C. 924(e) (2) (B) (i).

After the petition for a writ of certiorari was filed, the Court issued its decision in Stokeling v. United States, No. 17-5554 (Jan. 15, 2019). The Court in Stokeling determined that a defendant's prior conviction for robbery under Florida law satisfied the ACCA's elements clause. See slip op. 2, 13. The Court explained that "the term 'physical force' in ACCA encompasses the degree of force necessary to commit common-law robbery" -- namely, "force necessary to overcome a victim's resistance." Id. at 13.

This Court's decision in Stokeling forecloses petitioner's contention that Illinois robbery does not satisfy the ACCA's elements clause. Petitioner himself asserts (Pet. 4) that "Illinois'[] robbery law is essentially the same as Florida's statute." Because "'physical force'" under the ACCA encompasses "force necessary to overcome a victim's resistance," Stokeling, slip op. 13, and because Illinois robbery requires such force, see, e.g., Pet. 12-13, 15-17, 22-23; Pet. App. A17, the court of appeals correctly determined that petitioner's prior convictions for Illinois robbery were convictions for violent felonies under the ACCA's elements clause, Pet. App. A4.

The petition for a writ of certiorari should be denied.*

* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

FEBRUARY 2019