

No. 18-7470

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

CARL LEE WILLIAMS, PETITIONER

v.

UNITED STATES OF AMERICA

---

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

---

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

NOEL J. FRANCISCO  
Solicitor General  
Counsel of Record  
Department of Justice  
Washington, D.C. 20530-0001  
SupremeCtBriefs@usdoj.gov  
(202) 514-2217

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

No. 18-7470

CARL LEE WILLIAMS, PETITIONER

v.

UNITED STATES OF AMERICA

---

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

---

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

Petitioner contends (Pet. 8-28) that the court of appeals erred in determining that carjacking resulting in serious bodily injury, in violation of 18 U.S.C. 2119(2), qualifies as a "crime of violence" under 18 U.S.C. 924(c) (3) (A). This Court has recently and repeatedly denied petitions for writs of certiorari challenging the courts of appeals' consensus that Section 924(c) (3) (A) encompasses carjacking. See, e.g., Foster v. United States, No. 18-5655 (Jan. 7, 2019); Cooper v. United States, 139 S. Ct. 411 (2018) (No. 17-8844); Lindsey Johnson v. United States, 139 S. Ct. 70 (2018) (No. 17-8632); Henry v. United States, 139 S. Ct. 70 (2018) (No. 17-8629); Leon v. United States, 139 S. Ct.

56 (2018) (No. 17-8008); Stevens v. United States, 138 S. Ct. 2676 (2018) (No. 17-7785); Chaney v. United States, 138 S. Ct. 2675 (2018) (No. 17-7592); Dial v. United States, 138 S. Ct. 647 (2018) (No. 17-6036); Charles Johnson v. United States, 138 S. Ct. 61 (2017) (No. 16-8415); Evans v. United States, 137 S. Ct. 2253 (2017) (No. 16-9114); In re Fields, 137 S. Ct. 1326 (2017) (No. 16-293). The same result is warranted here.

A person commits carjacking if, "with the intent to cause death or serious bodily harm," he "takes a motor vehicle \* \* \* from the person or presence of another by force and violence or by intimidation." 18 U.S.C. 2119. For the reasons stated in the government's brief in opposition to the petition for a writ of certiorari in Cooper v. United States, supra, that offense qualifies as a crime of violence under Section 924(c) because it "has as an element the use, attempted use, or threatened use of physical force against the person or property of another," 18 U.S.C. 924(c) (3) (A). See Br. in Opp. at 6-9, Cooper, supra (No. 17-8844).<sup>1</sup> Every court of appeals to have considered the question has so held. See id. at 7-8.

Petitioner asks (Pet. 8-19) this Court to hold his petition for a writ of certiorari pending its disposition of Stokeling v. United States, 139 S. Ct. 544 (2019) (No. 17-5554). But after his

---

<sup>1</sup> We have served petitioner with a copy of the government's brief in opposition in Cooper.

petition for a writ of certiorari was filed, the Court issued its decision in Stokeling. The Court in Stokeling determined that a defendant's prior conviction for robbery under Florida law satisfied the elements clause of the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e), which classifies as a "violent felony" an offense that requires "the use, attempted use, or threatened use of physical force against the person of another," 18 U.S.C. 924(e) (2) (B) (i). See 139 S. Ct. at 554-555. The Court explained that "the term 'physical force' in ACCA encompasses the degree of force necessary to commit common-law robbery," id. at 555 -- namely, "force necessary to overcome a victim's resistance," ibid., "'however slight' that resistance might be," id. at 550; see id. at 554 (identifying "'hitting, slapping, shoving, grabbing, pinching, biting, and hair pulling'" as examples of "'physical force'" that would be "consistent with [the Court's] holding") (citation omitted).

Even assuming that Section 924(c) (3) (A) requires the same amount of "physical force" as the ACCA's elements clause, the Court in Stokeling rejected petitioner's preferred construction of that term, see Pet. 17-18. In addition, the Court recently denied a petition for a writ of certiorari that similarly sought a hold for Stokeling in the related context of armed bank robbery. See Lloyd v. United States, No. 18-6269 (Feb. 19, 2019); see also Pet. 8-9

(identifying Lloyd as a “similar” case). The same result is appropriate here.

Finally, no reason exists to hold the petition for a writ of certiorari pending this Court’s disposition of United States v. Davis, cert. granted, No. 18-431 (oral argument scheduled for Apr. 17, 2019). The question presented in Davis is whether the definition of “crime of violence” in 18 U.S.C. 924(c)(3)(B) is unconstitutionally vague. Pet. at I, Davis, supra (No. 18-431). Because petitioner’s conviction for carjacking qualifies as a conviction for a crime of violence under the separate definition in Section 924(c)(3)(A), this Court’s resolution of Davis will not affect the outcome of this case.

The petition for a writ of certiorari should be denied.<sup>2</sup>

Respectfully submitted.

NOEL J. FRANCISCO  
Solicitor General

MARCH 2019

---

<sup>2</sup> The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.