

No. 18-9323

IN THE SUPREME COURT OF THE UNITED STATES

DONALD DUHART, 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

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Petitioner contends (Pet. 2-4) that the definition of "crime of violence" in 18 U.S.C. 924(c) (3) (B) is unconstitutionally vague and that his conviction under 18 U.S.C. 924(c) (2012) for using a firearm during and in relation to a crime of violence -- specifically, conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. 1951(a) -- should therefore be vacated. In United States v. Davis, 139 S. Ct. 2319 (2019), this Court held -- in the context of Section 924(c) convictions likewise premised on conspiracy to commit Hobbs Act robbery -- that Section 924(c) (3) (B) is unconstitutionally vague. 139 S. Ct. at 2336. The petition for a writ of certiorari should accordingly be granted, the court

of appeals' judgment should be vacated, and the case should be remanded for further consideration in light of Davis.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

JULY 2019

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