

No. 18-_____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2018

SHAUN ROBERTS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

**MOTION TO DIRECT THE CLERK TO FILE PETITION FOR WRIT
OF CERTIORARI OUT OF TIME**

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** Counsel of Record for Petitioner*

Petitioner Shaun ROBERTS respectfully moves to file the attached petition for a writ of certiorari out of time.

The Ninth Circuit issued its decision on December 5, 2018. App. 1a. The petition was due on March 5, 2019. *See* Supreme Court Rule 13.3. Undersigned counsel submitted the attached petition on March 5, 2019 through this Court's electronic filing system. The official paper copies of the petition were sent via FedEx one day late, on March 6, 2019, and received by this Court on March 8, 2019. The Clerk sent a letter dated March 12, 2019 to undersigned counsel, rejecting the petition as filed out-of-time.

Given these circumstances, petitioner Roberts respectfully moves that the Court direct the Clerk to file the attached petition for a writ of certiorari out of time.

Respectfully submitted,

STEVEN G. KALAR
Federal Public Defender

March 27, 2019

s/ Todd M. Borden

TODD M. BORDEN
Assistant Federal Public Defenders

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 5 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SHAUN ROBERTS,

Defendant-Appellant.

No. 18-15016

D.C. Nos. 4:13-cv-05529-JSW
4:05-cr-00567-JSW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted November 27, 2018**

Before: CANBY, TASHIMA, and FRIEDLAND, Circuit Judges.

Shaun Roberts appeals from the district court's judgment denying his 28 U.S.C. § 2255 motion to vacate. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Roberts contends that his armed bank robbery conviction under 18 U.S.C. § 2113(a), (d) does not qualify as a predicate crime of violence under 18 U.S.C. § 924(c). This argument is foreclosed. *See United States v. Watson*, 881 F.3d 782 (9th Cir.), *cert. denied*, 139 S. Ct. 203 (2018).

AFFIRMED.

**Additional material
from this filing is
available in the
Clerk's Office.**