

No. 19-5308

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IN THE SUPREME COURT OF THE UNITED STATES

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OSCAR MINAYA, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 5-11) that the definition of "crime of violence" in 18 U.S.C. 924(c) (3) (B) is unconstitutionally vague. He further contends (Pet. 5-11) that his conviction under Section 924(c) for using a firearm during and in relation to conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. 1951, and conspiracy to commit kidnapping, in violation of 18 U.S.C. 1201(c), should therefore be vacated. See Judgment 1. In United States v. Davis, 139 S. Ct. 2319 (2019), this Court held -- in the context of Section 924(c) convictions premised on conspiracy to commit Hobbs Act robbery -- that Section 924(c) (3) (B) is unconstitutionally vague. Id. at 2334, 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

SEPTEMBER 2019

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