APPENDIX

APPENDIX

Appendix(A) Decision of the Court of Appeals for the Eleventh Circuit, In Re Dwight Carter Sr., No 19-12456(11th Cir. July 26, 2019)(Unpublished)

Appendix(B) Dwight Carter's Trial transcript of Jury instructions as to the 924(c) charge in Count 3 of the indictment which identifies the predicate offense(s) that supports the 924(c) conviction.

Appendix(C) Dwight Carter's Trial transcript of the general verdict of Guilty as to the Count(s) 1 through 6 of the indictment

Appendix(D) Judgement imposing Sentence, United States v. Dwight Carter S.D.Fla. No. 09-20470-Cr.JEM(Nov 5, 2010)

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-12456-B

IN RE: DWIGHT CARTER, SR.,

Petitioner.

Application for Leave to File a Second or Successive
Motion to Vacate, Set Aside,
or Correct Sentence, 28 U.S.C. § 2255(h)

Before: MARCUS, MARTIN, and HULL, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. §§ 2255(h) and 2244(b)(3)(A), Dwight Carter, Sr. has filed an application seeking an order authorizing the district court to consider a second or successive motion to vacate, set aside, or correct his federal sentence, 28 U.S.C. § 2255. Such authorization may be granted only if this Court certifies that the second or successive motion contains a claim involving:

> (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or
>
> (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255(h). "The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection." *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec'y, Dep't of Corrs.*, 485 F.3d 1351, 1357-58 (11th Cir. 2007) (explaining that this Court's determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

I. BACKGROUND

In 2010, a federal grand jury charged Carter in a six-count superseding indictment with, as relevant here: (1) conspiring to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a) (Count One); (2) substantive Hobbs Act robbery, in violation of 18 U.S.C. §§ 1951(a) and 2 (Count Two); and (3) carrying and using a firearm during and in relation to a crime of violence, "as set forth in Count 1 and Count 2," and "in the course of this violation caus[ing] the death of a person, Carlos Alvarado, through the use of a firearm, which killing was a murder as defined in Title 18 United States Code Section 1111," all in violation of 18 U.S.C. §§ 924(c)(1)(A), (j)(1), and 2 (Count Three).[1]

At trial, in regard to Count Three, the district court instructed the jury that, to find Carter guilty of violating § 924(c), they had to find (1) "that [Carter] committed the crime of violence which is charged in Count I or Count II of the indictment," and (2) "that during the commission of that offense, [Carter] knowingly carried or used a firearm in relation to that crime of violence."

[1]The superseding indictment also charged Carter with conspiracy to possess with intent to distribute cocaine and cocaine base (Count Four), possession with intent to distribute cocaine and cocaine base (Count Five), and possessing a firearm in furtherance of a drug trafficking crime (Count Six). None of these offenses are at issue in the present application.

The district court further instructed that, if the jury found Carter guilty of Count Three, they would be "further required to unanimously determine if [Carter], during the course of this violation, violated section J of 924 by causing the death of a person through the use of the firearm and if the killing was a murder as defined in 18 USC Section 1111."

The jury found Carter guilty as charged on all six counts of the superseding indictment. As to Count Three, the verdict form contained a special instruction directing the jury that, if they found Carter guilty of Count Three, they must determine whether Carter "caused the death of Carlos Alvarado through the use of a firearm and whether the killing was murder," and providing a space for the jury to answer "yes" or "no" "as to whether murder resulted from the Count 3 violation of the law." In response to this special instruction, the jury circled and checked the answer reading: "YES, murder did result."

The district court sentenced Carter to a total term of life imprisonment plus 105 years, consisting of consecutive statutory maximum sentences on all six counts. Specifically, the district court sentenced Carter to: (1) consecutive 20-year sentences on Counts One, Two, Four, and Five; (2) a consecutive life sentence on Count Three; and (3) a consecutive 25-year sentence on Count Six. Carter appealed, and in 2012 this Court affirmed his convictions and sentences. *See United States v. Carter*, 484 F. App'x 449, 452, 463 (11th Cir. 2012), *cert. denied* 568 U.S. 1149 (2013).

In 2014, Carter filed his original 28 U.S.C. § 2255 motion, raising nine claims of ineffective assistance of trial and appellate counsel. In 2015, the district court denied Carter's original § 2255 motion on the merits, and this Court denied him a certificate of appealability. In May 2016, Carter filed his first application for leave to file a successive § 2255 motion in this Court, arguing that his § 924(c) firearm conviction in Count Three was no longer valid in light of

Johnson v. United States, 135 S. Ct. 2551 (2015). This Court denied Carter's motion as premature because his petition for a writ of *certiorari* as to the denial of his original § 2255 motion was still pending in the Supreme Court.

In December 2016, Carter filed a second application for leave to file a successive § 2255 motion in this Court, again arguing that his § 924(c) conviction in Count Three was invalid in light of *Johnson*. This Court denied Carter's December 2016 application, concluding that even if *Johnson*'s holding invalidating the Armed Career Criminal Act's ("ACCA") residual clause applied to § 924(c)'s residual clause, Carter's § 924(c) conviction in Count Three remained valid because his Hobbs Act robbery conviction in Count Two qualifies as a crime of violence under § 924(c)(3)(A)'s elements clause. *See In re Carter*, No. 16-17761, slip op. at 8-18 (11th Cir. Feb. 13, 2017). Specifically, this Court determined that although Carter's indictment listed both the Hobbs Act conspiracy in Count One and substantive Hobbs Act robbery in Count Two as predicate offenses for the § 924(c) firearm charge in Count Three, the special verdict form made clear that the jury relied on the substantive Hobbs Act robbery in Count Two to convict Carter of the § 923(c) charge in Count Three. *See id.* at 16-18.

II. DISCUSSION

In his present application, Carter seeks to raise one claim in a second or successive § 2255 motion. Carter asserts that his § 924(c) conviction and sentence in Count Three is unlawful in light of the Supreme Court's recent decision in *United States v. Davis*, 139 S. Ct. 2319 (2019). Specifically, Carter argues that his § 924(c) offense in Count Three referenced both conspiracy to commit Hobbs Act robbery in Count One and substantive Hobbs Act robbery in Count Two. Carter contends that, because the trial court did not ask the jury to specify which predicate

conviction it relied upon to convict him, it is impossible to determine which predicate the jury used. Carter maintains that Hobbs Act conspiracy is not a valid predicate crime of violence without § 924(c)(3)(B)'s residual clause, and in light of the jury's "general verdict," it is impossible to conclude that his Hobbs Act conspiracy conviction in Count One did not have a "substantial and injurious effect" on his § 924(c) conviction in Count Three. In support of his claim, Carter cites *Davis*, *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), *Welch v. United States*, 136 S. Ct. 1257 (2016), and *In re Gomez*, 830 F.3d 1225 (11th Cir. 2016).

In *Davis*, decided on June 24, 2019, the Supreme Court extended its holdings in *Johnson* and *Dimaya* to § 924(c) and held that § 924(c)(3)(B)'s residual clause, like the residual clauses in the ACCA and § 16(b), is unconstitutionally vague. *Davis*, 588 U.S. at __, 139 S. Ct. at 2336. In doing so, the Supreme Court resolved a circuit split, rejecting the position (advocated for by the government in *Davis* and adopted by this Court and two other federal circuit courts) that § 924(c)(3)(B)'s residual clause could be saved from unconstitutionality if read to encompass a conduct-specific, rather than a categorical, approach. *See id.* at __, __, 139 S. Ct. at 2325 & n.2, 2332-33. The *Davis* Court emphasized that there was no "material difference" between the language or scope of § 924(c)(3)(B) and the residual clauses invalidated in *Johnson* and *Dimaya*, and therefore concluded that § 924(c)(3)(B)'s residual clause must suffer the same fate. *See id.* at __, __, 139 S. Ct. at 2326, 2336.

Recently, in *In re Hammoud*, __ F.3d __, 2019 WL 3296800, at *3-4 (11th Cir. July 23, 2019), this Court held that *Davis* announced a new substantive rule of constitutional law that has been made retroactive by the Supreme Court for purposes of successive motions under § 2255(h)(2). The Court in *Hammoud* reasoned that *Davis*, like *Johnson* before it, announced a

new substantive rule because it narrowed the scope of § 924(c), extended *Johnson* and *Dimaya* to a new statute and context, and "restricted for the first time the class of persons § 924(c) could punish and, thus, the government's ability to impose punishments on defendants under that statute." *Id.* at *3. The Court further determined that "taken together, the Supreme Court's holdings in *Davis* and *Welch* 'necessarily dictate' that *Davis* has been 'made' retroactive to criminal cases that became final before *Davis* was announced." *Id.* at *4. Thus, under *In re Hammoud*, a federal prisoner who can make a *prima facie* showing that his § 924(c) conviction is unconstitutional under *Davis* because it was based on § 924(c)'s residual clause is entitled to file a second or successive § 2255 motion. *See id.* at *5 (granting movant's application because he made the requisite *prima facie* showing that his conviction may have relied on § 924(c)'s residual clause).

Here, the problem for Carter is that he cannot make the necessary *prima facie* showing that his § 924(c) conviction in Count Three is unconstitutional under *Davis*. This is so because, as we explained in our prior order denying Carter's December 2016 application, the special jury verdict in Carter's case sufficiently establishes that his § 924(c) conviction in Count Three was predicated upon his commission of a qualifying crime of violence under § 924(c)'s elements clause. *See, e.g.*, 28 U.S.C. § 2244(b)(3)(C); *Jordan*, 485 F.3d at 1357-58. Though our February 2017 order explains why the special verdict form precludes Carter's claim, we take the time to recount and expand upon that analysis again below.

In *In re Gomez*, this Court granted an applicant leave to file a second or successive § 2255 motion raising a *Johnson*-based challenge to his § 924(c) conviction where: (1) the § 924(c) count listed four predicate offenses (conspiracy to commit Hobbs Act robbery, attempted Hobbs Act

robbery, and two drug trafficking crimes); (2) our precedents had not yet indicated whether a conspiracy to commit Hobbs Act robbery or an attempted Hobbs Act robbery qualified under the elements clause; and (3) for several reasons, it was unclear which crime or crimes served as the predicate offense for Gomez's conviction under § 924(c). 830 F.3d at 1226-28. The Court concluded that Gomez had made a *prima facie* showing that his § 924(c) conviction might implicate § 924(c)'s residual clause and *Johnson*. *Id.* at 1228.

Unlike *Gomez*, which involved a general jury verdict as to the § 924(c) count, this case involves a special verdict form as to the § 924(c) charge in Count Three on which the jury unanimously agreed that Carter, "through the use of a firearm," murdered the victim of the substantive Hobbs Act robbery charged in Count Two. Carter's contention that his jury returned a "general verdict" is factually baseless. To be sure, the jury's special verdict response does not directly answer the precise question presented here, namely, whether the § 924(c) count related to the Hobbs Act conspiracy in Count One, the substantive Hobbs Act robbery offense in Count Two, or both. Nevertheless, the jury's response to the special verdict instruction makes clear that Carter's § 924(c) offense involved the use of the firearm in the commission of the murder of the Hobbs Act robbery victim. Thus, the special verdict form shows the jury concluded that Carter used the firearm during the substantive Hobbs Act robbery charged in Count Two to kill the victim, and we need not "guess" about whether the jury relied on Count One or Count Two to convict Carter of the § 924(c) charge in Count Three. *See In re Gomez*, 830 F.3d at 1227-28.

This is also especially true since the district court's jury instructions make reference to only one victim and make reference to that victim only in the two relevant counts, Counts Two and Three—requiring the jury to find, in Count Two, whether the defendant "took the property against

the victim's will," and in Count Three, whether, during or in relation to a crime of violence, the defendant used a firearm and "the victim, Carlos Alvarado, was killed." The instructions also provide, in Count Three, that "[i]t's a Federal crime to murder another person while committing the crime of robbery." This language makes clear that the jury must have contemplated, and must have found unanimously, in Count Three that the defendant used a firearm "during and in relation to" the Hobbs Act robbery, and thus, that Count Two is the predicate offense the jury relied upon in Count Three. And because we have already held that substantive Hobbs Act robbery qualifies as a crime of violence under § 924(c)(3)(A)'s elements clause, which remains valid even after *Davis*, Carter cannot show that the Supreme Court's invalidation of § 924(c)(3)(B)'s residual clause in *Davis* has any bearing on the constitutionality of his § 924(c) conviction and sentence in Count Three. *See In re Saint Fleur*, 824 F.3d 1337, 1340-41 (11th Cir. 2016).[2]

Accordingly, because Carter has failed to make a *prima facie* showing of the existence of either of the grounds set forth in 28 U.S.C. § 2255, his application for leave to file a second or successive § 2255 motion is hereby DENIED. Because we deny Carter's application, his motion for appointment of counsel is DENIED AS MOOT.

---

[2]Other circuits have likewise held that substantive Hobbs Act robbery qualifies as a crime of violence under the elements clause in § 924(c)(3)(A). *See United States v. Barrett*, 903 F.3d 166, 174 (2d Cir. 2018); *United States v. Melgar-Cabrera*, 892 F.3d 1053, 1064-66 (10th Cir. 2018); *Diaz v. United States*, 863 F.3d 781, 783-84 (8th Cir. 2017); *United States v. Gooch*, 850 F.3d 285, 291-92 (6th Cir. 2017); *United States v. Rivera*, 847 F.3d 847, 848-49 (7th Cir. 2017).

MARTIN, Circuit Judge, dissenting:

Today's ruling makes three times that this panel has denied Dwight Carter permission to file a second or successive § 2255 petition. See In re Carter, No. 16-17761 (11th Cir. Feb. 13, 2017); In re Carter, No. 16-13115 (11th Cir. June 29, 2016). I have dissented each time and must again. As before, the panel majority relies on its interpretation of the verdict form in Mr. Carter's case. In re Carter, No. 16-17761, slip op. at 18. But the majority opinion's interpretation of the verdict form is, in my view, no more than a "guess about what the jury did." Id., slip op. at 24 (Martin, J., dissenting). And the Supreme Court does not permit judicial guesses to substitute for what a jury must find unanimously. See Alleyne v. United States, 570 U.S. 99, 103, 133 S. Ct. 2151, 2155 (2013). I would grant Mr. Carter's application and give him the district court review he has long sought.

Relevant here, Mr. Carter was charged with conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951; Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a); and carrying a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c). The § 924(c) charge was Count 3 of the indictment. The indictment identified the crimes of violence underlying the § 924(c) charge as the conspiracy and the substantive Hobbs Act robbery. Count 3 also charged Mr. Carter with causing the death of a person in a way that constitutes murder through the use of a firearm in the course of violating § 924(c), in violation of 18 U.S.C.

§ 924(j)(1). A jury convicted Mr. Carter of all counts, and it specifically found that "murder resulted from the Count 3 violation of the law."

When deciding whether a particular crime counts as a crime of violence under § 924(c), we are required to use the categorical approach. See United States v. Davis, 588 U.S. __, 139 S. Ct. 2319, 2327 (2019). To do this, we "disregard how the defendant actually committed his crime." Id. at 2326. Instead, we "may look only to the statutory definitions—i.e., the elements—of a defendant's prior offenses." Descamps v. United States, 570 U.S. 254, 261, 133 S. Ct. 2276, 2284 (2013) (quotation marks omitted). The Supreme Court recently held interpreting § 924(c)'s residual clause by way of the categorical approach violates the constitutional prohibition on vague laws. Davis, 139 S. Ct. at 2336.

This Court has never decided whether conspiracy to commit Hobbs Act robbery counts as a crime of violence under the § 924(c) residual clause or the elements clause. See In re Pinder, 824 F.3d 977, 979 n.1 (11th Cir. 2016). But two of our sister circuits have said conspiracy counts under the now defunct residual clause. United States v. Simms, 914 F.3d 229, 233–34 (4th Cir. 2019) (en banc); United States v. Davis, 903 F.3d 483, 485–86 (5th Cir. 2018), aff'd in part and vacated in part on other grounds by 139 S. Ct. at 2336. If this Court adopts the approach of those circuits, Mr. Carter may be entitled to relief. This is because we cannot tell whether his conspiracy conviction or his Hobbs Act robbery conviction

served as the predicate for his § 924(c) conviction. The jury form never required the jury to decide that issue. See In re Gomez, 830 F.3d 1225, 1227 (11th Cir. 2016). As a result, Mr. Carter's conviction may well rest on a law the Supreme Court has ruled unconstitutionally vague.

The majority opinion says Mr. Carter is not entitled to relief because the jury found that a murder resulted from Mr. Carter's violation of Count 3.[1] The majority opinion says this finding means "the jury unanimously agreed that Carter, 'through the use of a firearm,' murdered the Hobbs Act robbery victim." Maj. Op. at 6. But that simply is not what the verdict form says. It says that murder "resulted," not that Mr. Carter did it. And in any event this finding does not preclude relief for the two reasons I pointed out in one of my earlier dissents. In re Carter, No. 16-17761, slip op. at 22–24 (Martin, J., dissenting).

"First, the jury convicted Mr. Carter of the § 924(c) violation before convicting him of the § 922(j) violation in the same count." Id. at 22. Because the § 924(c) violation relied upon multiple counts, it is not clear from the verdict form whether the jury unanimously agreed that it related to any one of the underlying offenses. We may not guess whether the conspiracy conviction or the Hobbs Act robbery conviction served as the predicate, and we must employ the categorical

[1] In my view, this issue goes to the merits of Mr. Carter's § 2255 motion and should be left for the District Court to resolve in the first instance. See United States v. St. Hubert, 918 F.3d 1174, 1206–07 (11th Cir. 2018) (Martin, J., dissenting from the denial of rehearing en banc).

approach to determine whether Mr. Carter's crime is "within the ambit of 18 U.S.C. § 924(c)." Id. (quotation marks omitted). Davis adds only more doubt to the question of whether conspiracy, one of the possible predicate offenses, comes within § 924(c)'s ambit. For that reason, the predicate offense supporting Mr. Carter's conviction may be one that is not a crime of violence at all.

On top of that, the jury found Mr. Carter "caused" the death of a security guard and that the death was a murder. This does not necessarily mean Mr. Carter committed the murder. "It's true that the jury could have been saying it was the Hobbs Act robbery crime that caused the killing. But it's just as possible the jury was saying it was the conspiracy that caused the killing—that the planning and decision to use a firearm caused the murder. Or both. We simply cannot know." Id. at 23. And we are not permitted to review the facts to come to our own decision about that.

I regret that the majority opinion has once again denied Mr. Carter's application at this stage of preliminary review. The statute "restricts us to deciding whether [he] has made out a prima facie case of compliance with the § 2244(b) requirements." Jordan v. Sec'y, Dep't of Corr., 485 F.3d 1351, 1358 (11th Cir. 2007). All this requires is "a sufficient showing of possible merit to warrant fuller exploration by the district court." In re Holladay, 331 F.3d 1169, 1173 (11th Cir.

2003) (quotation marks omitted). I believe Mr. Carter has made that showing, so I would allow him to proceed.

The United States has further alleged, pursuant to Title 18, United States Code section 924(j), that during the course of the defendant's violation of (c)(1)(a), the defendant caused the death of a person through use of a firearm, and that the killing was a murder as defined by Title 18, United States Code Section 1111.

The defendant can be found guilty of violating section 924(c)(1)(a) only if all of the following facts are proved beyond a reasonable doubt:

First, that the defendant committed the crime of violence which is charged in Count I or Count II of the indictment.

And second, that during the commission of that offense, the defendant knowingly carried or used a firearm in relation to that crime of violence, or that during the commission of that offense, the defendant knowingly possessed the firearm in furtherance of that crime of violence.

A firearm is any weapon designed to or readily convertible to expel a projectile by the action of an explosive. The term includes the frame or receiver of any such weapon or any firearm muffler or silencer.

To use a firearm means more than mere possession and more than proximity and accessibility. It requires active employment of the weapon as by brandishing or displaying it in some fashion.

APPEARANCES:
FOR THE PLAINTIFF:

United States Attorney's Office
BY: ANTHONY LaCOSTA, A.U.S.A.
BY: SCOTT EDENFIELD, A.U.S.A.
99 N.E. 4th Street
Miami, Florida 33132

FOR THE DEFENDANT:

Adelstein & Matters, P.A.
BY: STUART ADELSTEIN, ESQ.
2929 Southwest 3rd Avenue - Suite 410
Miami, Florida 33129

REPORTED BY:

DAWN M. WHITMARSH, RPR
Official Court Reporter
400 N. Miami Avenue, 10S03
Miami, Florida 33128
Telephone: 305-523-5598

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED BY COMPUTER

(Jury in at 11:20 a.m.)

THE COURT: Madame foreperson, I understand that you have reached a verdict?

JUROR: Yes, we have, Your Honor.

THE COURT: Okay. Please give it to Wanda. Please be seated.

Please publish the verdict.

COURTROOM DEPUTY: We, the jury, in the above-styled cause, unanimously find the defendant, Dwight Carter:

As to Count I, guilty.

As to Count II, guilty.

As to Count III, guilty.

If you find the defendant guilty as to Count III, you must unanimously determine whether during the course of violating Count III, the defendant caused the death of Carlos Alvarado through the use of a firearm, and whether the killing was a murder as defined in these instructions.

As to whether murder resulted from the Count III violation of the law: Yes, murder did result.

As to Count IV, guilty.

As to Count V, guilty.

As to Count VI, guilty.

So say we all, signed and dated at the United States courthouse, Miami, Florida, this 30th day of July, 2010, Paula Kenzer, foreperson.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED BY COMPUTER

Appx. (c)

United States District Court

Southern District of Florida

MIAMI DIVISION

UNITED STATES OF AMERICA

v.

DWIGHT CARTER

JUDGMENT IN A CRIMINAL CASE

Case Number - 1:09-20470-CR-MARTINEZ(s)-1

USM Number: 86120-004

Counsel For Defendant: Stewart Adelstein
Counsel For The United States: Anthony Lacosta
Court Reporter: Dawn Whitmarsh

The defendant was found guilty on Count(s) 1, 2, 3, 4, 5, 6 of the Superseding Indictment.
The defendant is adjudicated guilty of the following offense(s):

TITLE/SECTION NUMBER	NATURE OF OFFENSE	OFFENSE ENDED	COUNT
18 U.S.C. § 1951(a)	conspiracy to interfere with commerce by committing robbery	December 1, 2008	One
18 U.S.C. § 1951(a)	robbery	December 1, 2008	Two
18 U.S.C. § 924(c)(1)(A),(j)(1).	possession of a firearm in furtherance of a crime of violence resulting in murder	December 1, 2008	Three
21 U.S.C. § 846	conspiracy to distribute and possess with intent to distribute a detectable amount of cocaine and a mixture and substance containing cocaine base	May 20, 2009	Four
21 U.S.C. § 841(a).	possession with intent to distribute a detectable amount of cocaine and a mixture and substance containing cocaine base	May 20, 2009	Five
18 U.S.C. § 924(c)(1)(A).	possession of a firearm in furtherance of a drug trafficking crime	May 20, 2009	Six

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

Appx. 1(D)

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of any material changes in economic circumstances.

Date of Imposition of Sentence:
November 2, 2010

JOSE E. MARTINEZ
United States District Judge

November 4, 2010

Appx. 2 (D)