

No. 19-6120

IN THE SUPREME COURT OF THE UNITED STATES

RAUL RODRIGUEZ,  
PETITIONER,

- VS. -

UNITED STATES OF AMERICA,  
RESPONDENT.

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

**PETITIONER'S REPLY MEMORANDUM**

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**ARGUMENT IN REPLY**

The government responds, as it has to previous petitions challenging *United States v. Robinson*, 844 F.3d 137, 143 (3d Cir. 2016), by implicitly conceding error but arguing it is harmless. Br. Opp. at 3-5. The government has been more direct in the Third Circuit, expressly disavowing *Robinson* as incorrectly decided. See, e.g., *United States v. Rodriguez*, 770 F. App'x 18, 20 (3d Cir. 2019) (noting government concession).

The Third Circuit now stands poised to answer whether *United States v. Davis*, 139 S. Ct. 2319 (2019) abrogates *Robinson*, and also whether Hobbs Act robbery (18 U.S.C. § 1951(a)) is categorically a crime of violence under § 924(c)'s element-of-force clause. See *United States v. Copes*, No. 19-1494 (submitted for decision Oct. 23, 2019). A decision on those matters is imminent, and there is no sound reason Mr. Rodriguez's case should not be remanded for disposition under *Copes*. To do otherwise risks unfairly disparate treatment of identically situated litigants in the Third Circuit.

## **CONCLUSION**

The petition for a writ of certiorari should be granted, the judgment of the Third Circuit vacated, and the case remanded to the court of appeals for further proceedings.

Respectfully submitted,



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