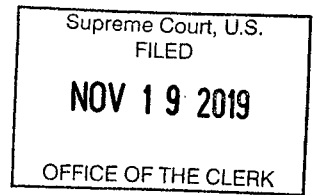


19-6850

IN THE  
SUPREME COURT OF THE UNITED STATES  
NOVEMBER TERM 2019

ORIGINAL



NO.

LEDELL S. TYLER,  
Petitioner,

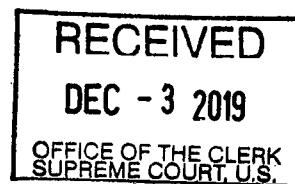
V.

UNITED STATES STATES OF AMERICA,  
Respondent.

On Petition For Writ of Certiorari To The  
United States Court of Appeals  
For The Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Mr. Ledell S. Tyler, Pro-se  
Registered No. #22000-026  
U.S. Penitentiary McCreary  
P.O. Box #3000  
Pine Knot, Kentucky 42635-0000



## QUESTION PRESENTED

1.

Whether The Meaning of The Word "Force" Under The Hobbs Act Provision Encompassass Both Violent and Non-Violent Conduct:

2.

Whether The Hobbs Act Statute Authorizes Common Law Home Invasion Crimes To Be Prosecuted under the ... Commerce Clause, That Have Nothing To Do With Any Interestate Businesses:

ii

i.

## PARTIES TO THE PROCEEDINGS

Mr. Ledell S. Tyler, Deaunte Tyler, and Dalvent Jackson were the Appellants below, and Mr. Ledell Tyler is the petitioner on review herein.

The United States Attorney office, for the Central District of illinois ("Rock Island") were the appellees below with The Honorable Williams H. Barr, The attorney general of the United States is the respondent herein.

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No. 19-

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LEDELL S. TYLER,  
Petitioner,

V.

UNITED STATES OF AMERICA,  
Respondent.

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On Petition For Writ of Certiorari To The  
United States Court of Appeals  
For The Seventh Circuit

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PETITION FOR WRIT OF CERTIORARI

Mr. Ledell S. Tyler, respectfully petition for a  
Writ of Certiorari to review the judgment of the Seventh Circuit  
below.

OPINIONS BELOW

The Seventh Circuit opinion is reported at United  
States V. Tyler, 2019 U.S. App. LEXIS #19601 (7Th Cir. July 1, 20  
19. The District Court has not address the foregoing issues.

JURISDICTION

The Seventh Circuit entered judgment on July 1,  
2019. Petition sought a Petition fro Rehearing on August 7, 2019.,  
which was denied on August 22, 2019. (unpublished)

The Jurisdiction of this court is invokled under  
28 U.S.C. §1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment of the United States Constitution  
States that:

"No person shall be deprived of life, or liberty  
without the right to due process:

The Hobbs Act Robbery Statute under 18 U.S.C. §1951  
(a) States in whole that:

"Whoever in anyway or degree obstructs, delay, or  
affect commerce or the movement of any article, by  
robbery or extortion or attempts or conspires so  
to do, or commits or threatens physical violence  
to any person or property in furtherence of a plan  
or purpose to do anything in violation of this section  
shall be fined under this title or imprisoned not  
more than 20 years, or both.

The Possession of a Firearm Statute under 18 U.S.C.  
§924(c)(3)(A) States in relevent parts that:

"Any person who, during and relation to any crime  
of violence or drug trafficking crime ("including  
a crime of violence or drug trafficking crime that  
provides for an enhanced punishment if committed  
by the use of deadly or dangerous weapon or device)  
for which the person may be prosecuted in a court  
of the United States, uses or carries a firearm.  
or who, in furtherence of any such crime, possess a fire  
arm.

## INTRODUCTION

Petitioner is one out of three defendants who is seeking certiorari behind an "Anders Brief" appeal that is nothing more than a travesty of justice, because the pro-se undersigned had to battle with the Seventh Circuit about his right to supplement and object to his compromised attorney's decision to abandon his case, despite the meritorious issues as now presented.

## STATEMENT

### A. Procedural History:

A jury found petitioner and his co-defendants guilty of robbery and conspiracy of robbery in violation of 18 U.S.C. §1951, §924(c) and 18 U.S.C. §922(g)(1). The district court imposed a sentence of imprisonment of ("180") months to be followed by Three years supervise release.

On appeal appellate counsel filed an "Anders Brief and motion to withdrawal under Anders V. California, 386 U.S. 738 (1967). Which the Seventh Circuit at first was not inclined to allow Mr. Ledell to submit an supplement, but it did so, then ignored same.

### B. Seventh Circuit Decision:

The Seventh Circuit held that threats to property and generic robbery qualifies as a crime of violence under the force clause of 18 U.S.C. §924(c)(3)(A). Tyler, Supra, 2019 U.S App. at

4., But other Circuits hold to the contrary. Tyler, Supra, 2019 U.S App. at 5 (citing) United States V. Camp, 903 F. 3d. 594, 604 (6th. Cir. 2018 and United States V. Co'Connor, 874 F. 3d. 1147, 1158 (10th Cir. 2017)). A claim by Mr. Ledell clearly rejected out of hand by the court. Tyler, Supra, 2019 U.S. App. at 1-2.

In addition to the above the Seventh Circuit should have sua sponte took judicial notice of the fact, that the Hobbs Act does not cover generic robberies at all, moreover, jurisdiction was lacking under section § 1951(a). SEE: Singleton V. Wulff, 428 U.S. 106, 112-21, 96 S.Ct. 2868, 49 L. Ed. 2d. 826 91976. As a result that few hundred dollars stolen under the theme that the defendants was trying to steal drugs from a private dwelling, does not fit the provision on even attempted robberies, or conspiracy thereof, the Court in the Tyler case has taken the Hobbs Act beyond its intent by misusing this court's Taylor opinion, and needs to be resolved.

## REASONS FOR GRANTING THE PETITION

### There Is Another Circuit Split Over Whether The Hobbs Act Robbery Provision Can Serve As A Predicate Offense Under §924(c) Now Debunked Residue Clause:

The opinion below renews a clear Circuit Split among the lower courts, as to whether the residue clause of §924(c) still applicable to offenses after this court's decision in United States V. Davis, 139 S.Ct. 2319 (2019). A policy disagreement and practice among Circuit Judges who are forcing appellant's to roll the dice and see if this tribunal will authorize review. The Straightforward of division in authority has consequential implications for defendants nationwide who are forced to proceed pro-se and face discriminating practices of the lower courts under the fiction of Anders brief case reviews.

The Seventh Circuit ruled that 924(c)(3)(B) to be unconstitutionally vague. Sweeney V. United States, 2018 U.S. App. LEXIS #33073, at 3-4 (7Th Cir. November 14, 2018)(granted and remanded) (citing) United States V. Cardena, 842 F.3d. 959, 996 (7Th Cir. 2016), Cert. Denied, 138 S.Ct. 247, 199 L.Ed.2d. 159 (2017). And even held that vagueness holdings typically extend across the United States Code to cover various Statutes with similar language. Cross V. United States, 892 F.3d. 288 (7Th Cir. 2018)(C.J. Wood)("2255 Proceeding").

In the proceedings below, the panel of the Seventh Circuit ignored the specific question at bar, and ruled by footnote

fiat, that petitioner's proposed argument has been overruled. United States V. Rivera, 847 F.3d. 847, 849 (7Th Cir. 2017)("Hobbs Act Robbery qualifies as a predicate for a crime of violence conviction, because one cannot commit robbery without using or threatening physical force").Id:

I.

THE QUESTION PRESENTED IS IMPORTANT

The question presented is important for at least three reasons.

First, The word force and violence have different meanings within the definition of "robbery" under the Hobbs act. Loughrin V. United States, 573 U.S. 351, 134 S.Ct. 2384, 189 L.Ed.2d. 411 (2014). Moreover, the "minor" uses of force may not constitute violence in the generic sense. United States V. Castleman, 572 U.S. 157, 17071, 134 S.Ct. 105, 1414-21 (2014)("Scalia, J., Concurring in part and concurring in judgment").

Second, the decision below embraces a judicially created scheme imported from guideline application analysis, rather, than upon a proper Hobbs Act Robbery application in relation to §924(c) residue clause mathology. Rivera, Supra, 847 F.3d. at 849. Which was avoided by the government, and the Seventh Circuit alike, Because it did not fit their narrative, besides the fact it was by a pro-se litigant, not a proffered lawyer.

Third, Section §924(c) cannot attached to a Hobbs

Act Robbery conviction because "conspiracy" is not a crime of violence according to some courts who are willing to discharge their duty under the Constitution and laws of the united states. United States V. Muratovic, 719 F.2d. 809, 817 (7Th Cir. 2013). A fact that implicitly acknowledge, but abstains to resolve this probable Constitutional violation due to pro-government views the seventh circuit seems to harbor.

A. The decision Below Is Wrong As a Matter of Law:

The decision of the Seventh Circuit, on an important question of Federal law, is wrong, because the text, Structure and previous cited decisions in Davis, Johnson, Dimaya, and Leocal suggests otherwise.

In Davis, Supra, The Supreme Court invalidated 18 U.S.C. §924(c)(3)(B) residue clause. United States V. Cardena, 842 F.3d. 959, 996 (7Th Cir. 2016), cert. denied, 138 S.Ct. 247, 199 L.ed. 2d. 159 (2017)("Holding 924(c)(3)(B) unconstitutionally vague"); SEE: Cross V. United States, 892 F.3d. 288 (7Th Cir. 2018)(same); Sweeney V. United States, 2018 U.S. App. LEXIS# 333073, (at 3-4 (7Th Cir. Nov. 14, 2018)(reversed and remanded).

Under the principles of horizontal stare decisis, the overwhelming weight of authority seems to suggest that there is no difference between 924(c)(3)(B) and §924(c)(3)(A). United States V. Kennedy, 133 F.3d. 53, 56 n.3 (D.C. Cir. 1998); United States V. Tylor, 176 F.3d. 331, 337-38 (6Th Cir. 1999); United States V. Phan, 121 F.3d. 149, 152-53 (4Th Cir. 1997); United States E. Elder, 88 F.3d. 127, 128 (2d. Cir. 1996); United States V. Mendez, 992 F.2d. 1488, 1491 (9Th Cir. 1992).

It must be remembered that although "aiding and abetting" is implicit in every indictment, conspiracy is not. Velleff V. United States, 307 F.Supp.3d. 891, 895 (N.D. Ill. 2018)(citing) Bush V. Pitzer, Supra, 133 F.3d. 455, 457 (7th Cir. 1997)(quoting collective cases); See Also: Horne V. United States, 2018 U.S. Dist. WL. #1378976, at 3, or LEXIS 44227 (S.D. Ind. March 19, 2018)("holding that Hobbs Act Conspiracy does not categorically qualify as a crime of violence under §924(c) force clause and cannot constitute a crime of violence under section §924(c)(3)(A)") and that would necessarily mean that the panel in this case abused its discretion, by openly discriminating against a pro-se litigant on general principles alone. 1 /

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1 / This court in the interest of justice alone, may want to make an opinion as to an appellate version of Haines V. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d. 652 (1972)(per curiam).Which this court has never crafted such a one, and this case is ripe to do so. Erickson V. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed.2d. 1081 (2007)(per curiam).



## II.

### The Evidence Was Insufficient To Support A Hobbs Act Robbery Offense As-Applied To Interstate Commerce:

The government failed to meet an sufficient link between the robbery crime of home invasion and interstate commerce pursuant to 18 U.S.C. §1951(a) of which the United States had no subject matter jurisdiction to prosecute the petitioner.

The Hobbs Act Robbery provision was designed to protect interstate businesses against marauding criminal gangs who was targeting commercial and industrial enterprises. United States V. Green, 350 U.S. 415, 76 S.Ct. 522, 525-26, 100 L.Ed.2d. 494 (1956) (" detailing the Legislative History of section §1951"); United States V. Staszczuk, 517 F.2d. 53, 57 (7Th Cir.), Cert. denied, 423 U.S. 837, 96 S.Ct. 65, 46 L.Ed.2d. 56 (1975). To prove a violation of the Hobbs Act, the government must demonstrate the robbery had an affect on interstate commerce. Stirone V. United States, 361 U.S. 212, 215, 80 S.Ct. 270, 4 L.Ed.2d. 252 (1960). The requisited nexus may be established through a slight impact on commerce based upon a de minimis effect. United States V. Harty, 930 F.2d. 1257, 1260-61 (7Th Cir. 1990). As long as the crime has a legitimate or corresponding ("buying or saling") commercial connection to interstate commerce, not a supposed criminal element. Green, Supra, 76 S.Ct. at 525-26.

Congress chosed to not to enact a common-robbery provision to keep the faith with the Seperation of Powers doctrine concerns. Scheidler V. NOW, Inc., 547 U.S. 9, 18-19, 126 S.Ct.1264, 164 L.Ed.2d. 10 (2005). Even under the so-called depletion of assets concept. NLRB V. Fainblatt, 306 U.S. 601, 607, 59 S.Ct. 668, 83 L. Ed.2d. 1014 (1939). To hold otherwise would clearly fall within the principle of prohibited judicial legislation. Kirschaum Co./V. Walling, 316 U.S. 517, 522, 62 S.Ct. 1116, 86 L.Ed.2d. 1138 (1942). By substituting an erroneous interpretation of Congressional intent to restrict the Hobbs Act reach to legitimate businesses. Detroit Trust Co. V. The Thomas Barlum, 293 U.S. 21, 38, 55 S.Ct. 31, 79 L.Ed.2d. 176 (1934)("We are not at liberty to imply a condition which is opposed to the explicit terms of the statute, to [so] hold is not to construe the Act, but to amend it").Id:

The following Circuits have struct down an application of the "Hobbs Act" against personal property prosecutions. United States V. Buffey, 899 F.2d. 1402, 1407 (4th Cir. 1990)("rejecting an interstate nexus because the victim would have money paid out of personal assets"); United States V. Collins, 40 F.3d. 95, 100 n.23 (5Th Cir. 1994)("The court struct down a Hobbs Act prosecution against a home invasion robbery due to a personal property theft"); United States V. Wang, 222 F.3d. 234, 238-40 (6Th Cir. 2000)("recognizing that a robbery of a private citizen that causes only a speculative indirect affect on a business engaged in interstate commerce will not satisfy the jurisdictional requirement of the "Hobbs Act"); United States V. Quigley, 53 F.3d. 909, 910-11 (8Th Cir. 1995)("actions normally have a lesser effect on

interstate commerce when directed at individuals, rather than businesses"); United States V. Lynch, 282 F.3d. 1049, 1053 (9th Cir. 2002)("distinguishing between robbery of a business and robbery of an individual, and adopting the Collins test on interstate commerce when robbers target the latter"); United States V. Mattson, 671 F.2d. 1020, 1023-25 (7th Cir 1982)("any conspiracy to extract money from the allege victim did not in and of itself affect commerce")(reversed and remanded"); United States V. Thomas, 159 F.3d. 296, 298 ("recognizing these cases are in tensions with other Circuits on the same subject of personal property")("quoting collective cases on both side of the coin").

Here in the case sub judice, the allegations for a conviction cannot be sustained. United States v. Anderson, 280 F.3d. 1121, 1124-25 (7th Cir. 2002). For the simple reason that government officials manufactured jurisdiction over this crime by having their witness to falsely testify that the defendants was their to steal drugs and money. Hampton V. United States, 425 U.S. 484, 493 n.4 96 S.Ct. 1646, 48 L.Ed.2d. 113 91976)(quoting) United States V. Atcher, 486 F.2d. 670, 681-82 (2d. Cir. 1973)(per curiam). When there was no evidence shown that the allege victim was a drug dealer. United States V. Brantley, 777 F.2d. 159, 822 (4th Cir. 1985), Cert. denied, 479 U.S. 822, 107 S.Ct. 89, 93 L.Ed.2d. 40 (1986). A fact the respondent cannot deny, because everyone in the black community knows who is or is not a narcotics trafficker.

To insinuate such a travesty, is an insult to legitimate law enforcement purposes. United States V. Taylor, 480 F.3d. 1025, 1027 (11th Cir. 2007); Because fictitious crimes are now a norm, instead the prohibition to counter narcotics traffickers.Id:

The cases cited herein and thereafter, show there is still a conflict of decisions that need to be resolved, which the case authored by this court in Taylor V. United States, 138 S.Ct. 2074, 195 L.Ed.2d. 456 (2016). Conflicts with the Hobbs Act legislative history which does not support the court's interpretation, which has legalized drug trafficking. Scheidler V. National Organization For Women, Inc., 537 U.S. 393, 405-06, 123 s.Ct. 1057, 154 L.Ed.2d. 991 (2003). And to hold to the contrary would ignore 21 U.S.C. §331(a) and §353(b)(1)(B). United States V. Travia, 180 F.Supp.2d. 115, 117 (D.D.C. 2001). Besides The Illinois Medical Practice Act of ("1987") Ill.Rev.Stat. Ch.111, 4400 et.seq. and the Illinois Pharmacy Practice Act of ('1987") 225 ILCS 85 et.seq. Revised statute 111, section 4001 et.seq. paragrapg 4010. SEE: Potts V. Illinois Department of Registration and Education, 128 Ill.2d. 322, 538 N.E.2d. 1140, 1143-45 (1989).

The proof that Taylor was incorrectly decided, is shown by the mere fact that Congress would have never recognize unlawful drug sales as a legally inherented economic enterprise. 21 U.S.C. §854(a) & (c). United States v. Doremus, 249 U.S. 586, 39 S.Ct. 214, 63 l.Ed.2d. 493 (1919). Moreover, the government's jurisdiction of such crimes under the Hobbs act rests only on interference. United States V. McFarland, 311 F.3d. 376, 409 (5Th Cir. 2002)(en banc)("dissenting with haft of the evenly divided en banc on the basis of the Hobbs Act jurisdictional element should requiresubstantial effects").

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2 / There is no doubt that the Taylor court's opinion was designed to protect Marijuana dealers in those States who legalized the drug, regardless of Congress's prohibitions.

Another counterpoint to this bold assertion by the respondent in the Taylor case, is the fact that the government did not explain ("why") it took it (40) years or more to determine it had jurisdiction to prosecute "drug robberies" from private citizens under the Commerce Clause, until it suited the United States legal interest to amend an Act of Congress. United States V. Perrotta, 313 F.3d. 33, 37 (2d. Cir. 2002). Which nothing in the "Hobbs Act" was mention about anything other than legal commercial businesses.

3 /

Congress deemed unregistering-distributing of drugs unlawful and illegal. United States V. Balint, 258 U.S. 250, 253-54, 42 S.Ct. 301, 66 L.Ed.2d.604 (1922)("Sale of Narcotics"); Meaning the prosecution of these cases are contrary to the very purpose of Hobbs Act intent and conscientious enforcement of the statute has been in fact taken to the illogical extreme, and beyond legislative intent as a matter of fact.

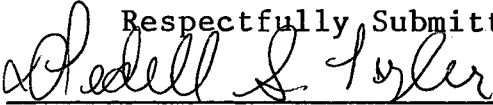
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3 / Being that the as-applied argument reference to the fact, that the Hobbs has not permit the United states to extend government jurisdiction over offense of this type. Kelly V. United States, 29 F.3d. 1107, 112-13 (7Th Cir. 1994). it stands to reason that the court was without jurisdiction to prosecute the offense as a matter of fact and law, because the respondent alleged that the defendants stole only a few hundred dollars out of a purse, not related to legitimate items in commerce, which means this issue is not barred to be raised at this level of review. Rule 12(b)(2) Fed.R.Crim.P. United States V. Bolton, 893 F.2d. 894, 900 (7Th Cir. 1989)("Ajurisdictional error cannot be waived or deemed harmless") (citing) Lovelace V. Dall, 820 F.2d. 223, 226 n.3 (7Th Cir. 1987)(per curiam). The government may proffer an personal versus subject matter analysis, but that would be unavailing for the simple reason that 18 U.S.C. §3231 deals with the courts power to hear a criminal action, not the jurisdiction to charge a person for an offense.

CONCLUSION

Wherefore, the petition for certiorari should be granted in the interest in justice.

Dated:

Respectfully Submitted  
  
Mr. Ledell S. Tyler, Pro-se