

No.19-7320

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In The  
Supreme Court of the United States

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JURDEN ROGERS.

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 Eleventh Circuit

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REPLY TO THE UNITED STATES'  
BRIEF IN OPPOSITION

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## STATEMENT

Amidst the Covid 19 crisis which has devastated the well-being of the country, both physically and financially, the undersigned was also diagnosed with a fairly aggressive type of prostate cancer. On May 13, 2020, the undersigned underwent prostate removal surgery, and although not completely cleared by his physician to return to a full work schedule, the undersigned submits the following Reply to the United States' Brief in Opposition for further consideration in support of Mr. Rogers's Petition.

## REPLY ARGUMENT

In its Brief in Opposition, the government correctly aligns the case at bar with the pending case of *Johnson v. United States*, No. 19-7079 (April 24, 2020). In both case, the primary issue is whether bank robbery qualifies categorically as a "crime of violence" under 18 U.S.C. § 924( c)(3)(A), when the offense may be committed through the mere use of intimidation.

- I. The circuits' entrenched position that a federal bank robbery is a "crime of violence" under 18 U.S.C. § 924( c)(3)(A) is inconsistent with the expansive conduct punished as "intimidation" Under 18 U.S.C. § 2113(A).

The merits of this argument were expounded on in *Johnson v. United States*, No. 19-7079 (April 24, 2020), Reply Brief in Response to Opposition to Petition for

Writ of Certiorari, Pages 2-4. Mr. Rogers respectfully adopts and incorporates the arguments set forth by the Petitioner in Johnson, Id.

II. The circuits have wrongfully concluded that armed bank robbery by intimidation categorically requires proof of threat of violence

The merits of this argument were expounded on in Johnson v. United States, No. 19-7079 (April 24, 2020), Reply Brief in Response to Opposition to Petition for Writ of Certiorari, Pages 4-9. Mr. Rogers respectfully adopts and incorporates the arguments set forth by the Petitioner in Johnson, Id.

III. The circuits have wrongfully concluded that armed bank robbery necessarily requires proof that the defendant engaged in knowing intimidation.

The merits of this argument were expounded on in Johnson v. United States, No. 19-7079 (April 24, 2020), Reply Brief in Response to Opposition to Petition for Writ of Certiorari, Pages 9-11. Mr. Rogers respectfully adopts and incorporates the arguments set forth by the Petitioner in Johnson, Id.

IV. It is exceptionally important that the Court take up the circuit courts' error.

The merits of this argument were expounded on in Johnson v. United States, No. 19-7079 (April 24, 2020), Reply Brief in Response to Opposition to Petition for Writ of Certiorari, Pages 12-13. Mr. Rogers respectfully adopts and incorporates the arguments set forth by the Petitioner in Johnson, Id.

V. Mr. Rogers's case is an excellent vehicle

Mr. Rogers's case is an ideal vehicle in which to decide this issue on the merits. It is a trail case which is unencumbered by the additional issues

surrounding entry of a guilty plea.

Further, the issue was pled and preserved since the onset of the case, and the court of appeals squarely and specifically determined that bank robbery “by intimidation” categorically qualifies as a “crime of violence” citing the prior precedent rule, and indicating that they are so bound until such precedent is overruled, or undermined to the point of abrogation by the Eleventh Circuit Court of Appeals en banc, or by the Supreme Court.

#### VI. Conclusion

For these reasons and those states in the petition, the court should grant the petition for a writ of certiorari.

Respectfully submitted on this 23rd day of May, 2020.

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