

No. 19-7417

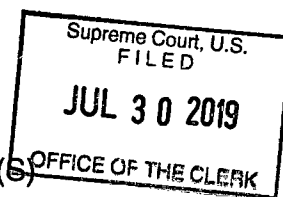
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Corey Michael Edwards — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Corey Edwards
(Your Name)

PO Box 699
(Address)

Estill, SC 29918
(City, State, Zip Code)

(919) 303-7353 [wife]
(Phone Number)

QUESTION(S) PRESENTED

Can a conviction in North Carolina state court involving the breaking and entering of outbuildings (i.e. storage sheds), that were visably and actually padlocked from the outside, where no reasonable person, jurist or otherwise, could infer there were any inhabitants, be used as predicate offenses for the purpose of enhancing a sentence under the Armed Career Criminal Act (ACCA)?

Did lower court err when it looked behind Edward's conviction for breaking and entering under North Carolina state law in search of record evidence that he actually committed the generic offense of "burglary" under the ACCA, and used that finding to enhance a sentence it imposed after the defendant was convicted of violating 18 U.S.C. § 922(g)?

Was Edward's deprived the Sixth Amendment right to effective counsel because his attorney erroneously argued that the First Step Act of 2018 somehow changed the language of the ACCA, rather than correctly identify and argue the merits of the case?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- United States v. Edwards, No. 5:17-CR-00118-D-1, U.S. District Court for the Eastern District of North Carolina, Judgment entered May 25, 2018.
- United States v. Edwards, No. 18-4398, U.S. Court of Appeals for the Fourth Circuit. Judgment entered May 28, 2019.

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TABLE OF AUTHORITIES CITED

CASES

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Taylor v United States [No. 88-7194]	p. 5
United States v Stitt [No. 17-765]	p. 5
United States v Sims [No. 17-766, 854 F.3d 1037]	p. 5

STATUTES AND RULES

18 U.S.C.S. § 924(e)(2)(B)(ii)
Constitution of the United States, Amendment 6
Criminal Law § 46.5; 46.7 [9 LED2D 799, 372 US 335]
18 U.S.C.S § 922(g)
Categorical approach

OTHER

N/A

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 28, 2019.

☒ No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title 18 U.S.C.S. § 924(e)(2)(B)(ii) defines "violent felony" as any crime punishable by imprisonment for a term exceeding one year that (i) has an element the use of, attempted use, or threatened use of physical force against the person of another; or (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another. When examined under the "categorical approach" established under *Taylor v. United States*, the predicate state offenses used to enhance the defendant's sentence does not meet the definition set out in the aforementioned statute. The Court has read its Sixth Amendment precedents to require the categorical approach.

STATEMENT OF THE CASE

Corey Michael Edwards was convicted of possession of a firearm and ammunition by a felon, and subsequently sentenced to 180-months following his guilty plea. Edwards claims he was not made aware of the possibility of Sentencing enhancement under the ACCA until after he entered into the plea agreement. During the sentencing phase of the case counsel for Edwards erroneously raised the challenge that his client's sentencing enhancement was no longer valid following the First Step Act of 2018. The district court did not recognize this challenge.

On appeal to the Fourth Circuit Court of Appeals, counsel for Edwards presented the same First Step Act challenge to the court. Counsel for the Appellant failed to more appropriately contest that Edwards prior state court convictions do not satisfy the requirements of predicate offenses under the ACCA. The circuit court rightfully affirmed the lower court's decision.

REASONS FOR GRANTING THE PETITION

If the Supreme Court grants this petition, it would further aid the lower courts in determining what constitutes the terms "violent felony" and "generic burglary" under the ACCA. Currently, fairly benign predicate offenses are being used to enhance the sentences of undeserving defendants. The ambiguity of these terms are creating sentencing disparities among similarly situated offenders. For instance, if Edwards were not enhanced under the ACCA, his guideline range would have resulted in a sentence between 33-months and 48-months, rather than his actual sentence of 180-months. This is a major disparity. It is difficult to imagine Edwards is the only defendant in this situation.

Further, attorneys have a professional responsibility to know the current status of a case, statute, or other legal authority before they rely on it in representing a client. If this judgment is affirmed it will add to the current culture of expected ineffectiveness on the part of defense counsel. Based on the current trend of ineffective assistance of counsel claims, the presence of a defense attorney is merely a matter of decorum. If this petition is granted, the decision could help curb this trend, compel defense attorneys to pursue further study of the law, offer their clients effective defense strategies and mitigation, and reduce these types of procedural errors.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Loey Edm B

Date: 1-13-2020