

No. 20-6284

IN THE SUPREME COURT OF THE UNITED STATES

D'ANGELO DOMINGO DAVIS, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 4-13) that armed bank robbery, in violation of 18 U.S.C. 2113(a) and (d), does not qualify as a "crime of violence" within the meaning of 18 U.S.C. 924(c)(3)(A). The district court correctly rejected that contention, and the court of appeals appropriately granted the government's motion for summary affirmance.

A conviction for armed bank robbery requires proof that the defendant (1) took or attempted to take money from the custody or control of a bank "by force and violence, or by intimidation," 18 U.S.C. 2113(a); and (2) either committed an "assault[]" or

endangered “the life of any person” through “the use of a dangerous weapon or device” in committing the robbery, 18 U.S.C. 2113(d). For the reasons stated in the government’s brief in opposition to the petition for a writ of certiorari in Johnson v. United States, No. 19-7079 (Apr. 24, 2020), armed bank robbery qualifies as a crime of violence under Section 924(c) because it “has as an element the use, attempted use, or threatened use of physical force against the person or property of another,” 18 U.S.C. 924(c) (3) (A). See Br. in Opp. at 7-25, Johnson, supra (No. 19-7079).¹

Petitioner contends that armed bank robbery does not qualify as a crime of violence under Section 924(c) (3) (A), asserting that robbery “by intimidation” does not require a threat of violent force, see Pet. 9-12, and that federal bank robbery is not a specific-intent crime, see Pet. 5-9 (citing, inter alia, Carter v. United States, 530 U.S. 255, 268 (2000)). Those contentions lack merit for the reasons explained at pages 9 to 20 of the government’s brief in opposition in Johnson, supra (No. 19-7079). Every court of appeals with criminal jurisdiction, including the court below, has recognized that Section 924(c) (3) (A) and similarly worded provisions encompass federal bank robbery and armed bank robbery. See id. at 7-8. This Court has recently and repeatedly denied petitions for a writ of certiorari challenging the circuits’

¹ We have served petitioner with a copy of the government’s brief in opposition in Johnson, which is also available from this Court’s online docket.

consensus on that issue, see id. at 7-8 & n.1, and the same result is warranted here.

The petition for a writ of certiorari should be denied.²

Respectfully submitted.

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² The government waives any further response to the petition unless this Court requests otherwise.