

No. 20-7223

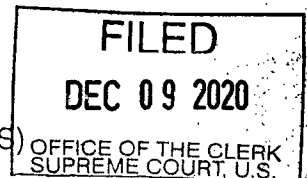
ORIGINAL

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

ANGELO C. DOUGLAS — 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 EIGHTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

**ANGELO C. DOUGLAS (PRO SE)**

\_\_\_\_\_  
(Your Name) REG. NO. 30337-047  
U.S. PENITENTIARY  
P.O. BOX 1000  
LEAVENWORTH, KS 66048  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

WHETHER PETITIONER'S ARGUMENT UNDER UNITED STATES v. DAVIS, 139 S.Ct. 2319 (2019), DESERVES CLOSER SCRUTINY, WHERE APPLYING THE SAME STANDARDS IN DAVIS, PROVES THAT **BANK ROBBERY** UNDER 18 U.S.C. § 2113(a) IS **NOT** A "CRIME OF VIOLENCE" FOR PURPOSES OF 18 U.S.C. § 924(c), BECAUSE IN ADDITION TO TAKING MONEY FROM A BANK BY "FORCE AND VIOLENCE, OR BY INTIMIDATION," THE OFFENSE CAN **[A]LSO** BE COMMITTED BY THE MEANS OF ENTERING A BANK **"WITH INTENT TO COMMIT IN SUCH BANK... ANY FELONY AFFECTING SUCH BANK... OR ANY LARCENY."**

## 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:

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### OTHER

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☒ is unpublished.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 B 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☒ is unpublished.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 July 7, 2020.

☐ 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: Aug. 18, 2020, and a copy of the order denying rehearing appears at Appendix C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including COVID-19 (date) on 150 days (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

PETITIONER'S DUE PROCESS CLAUSE WAS VIOLATED WHEN HE WAS SENTENCED AND CONVICTED UNDER 18 U.S.C. § 924(c), BECAUSE BANK ROBBERY IS NOT A CRIME OF VIOLENCE UNDER THE STANDARDS APPLIED IN UNITED STATES v. DAVIS, 139 S.Ct. 2319 (2019).



STATEMENT OF THE CASE

Petitioner was charged with a two count indictment. **Count One** charged a violation of Title 18, U.S.C. §§ 2113(a) and 2, that is **BANK ROBBERY** and Aiding and Abetting. **Count Two** charged a violation of Title 18, U.S.C. § 924(c)(1)(A) and 2, that is Brandishing a Firearm During a Crime of Violence or Aiding and Abetting Brandishing a Firearm During a Crime of Violence.

Petitioner was sentenced on June 25, 2018, to a term of 48-months on **Count One**, and 84-months on **Count Two**, consecutive, followed by five years of supervised release on **Count One and Two**, concurrent. He did not appeal.

Hence, Petitioner filed a timely initial Motion under 28 U.S.C. § 2255(f)(3) pursuant to UNITED STATES v. DAVIS, 139 S.Ct. 2319.

REASONS FOR GRANTING THE PETITION

In light of UNITED STATES v. DAVIS, 139 S.Ct. 2319 (2019), Petitioner's conviction and sentence under § 924(c) violated due process of law. Building on SESSIONS v. DIMAYA, 138 S.Ct. 1204 (2018), this Honorable Court in DAVIS struck down the residual clause in § 924(c)(3)(B), on the same grounds of unconstitutional vagueness.

Although the Eighth Circuit has not yet stated whether it considers DAVIS to have announced a new rule of constitutional law that is retroactively applicable to cases on collateral review, several other circuits have found that it does. See, IN RE HAMMOUD, 931 F.3d 1032 (11th Cir. 2019); UNITED STATES v. REECE, 938 F.3d 630, 2019 WL 4252238 (5th Cir. 2019); UNITED STATES v. BOWEN, 936 F.3d 1091 (10th Cir. 2019).

Therefore, Petitioner argued that bank robbery under § 2113(a) is [NOT] a "crime of violence" for purposes of § 924(c) because, in addition to taking money from a bank by "force and violence, or by intimidation," the offense can [a]lso be committed by the means of entering a bank "with intent to commit in such bank... any felony affecting such bank... OR ANY LARCENY."

Whereby, Petitioner contends that § 2113(a) is [I]NDIVISIBLE and that the latter clause shows that bank robbery can be committed [W]ITHOUT using physical force.


This Honorable Court should employ the same standards applied in DAVIS, to assess whether Petitioner's predicate crime (18 U.S.C. § 2113(a)) fits that definition. This "analysis looks only to the elements of the crime to determine whether, by its terms, commission of the crime inherently (i.e., categorically) requires" **FORCE**. Force in this context "means **VIOLENT FORCE** --that is, force capable of causing physical pain or injury to another person." CURTIS JOHNSON v. UNITED STATES, 559 U.S. 133, 140, 130 S.Ct. 1265, 176 L.Ed.2d 1 (2010) (emphasis in original).

Hence, if this Honorable Supreme Court finds that it is possible to commit a Bank Robbery crime **WITHOUT** the use, attempted use, or threatened use of violent force, as argued above by Petitioner, this Honorable Court should VACATE the lower court's decisions and order that Petitioner's 18 U.S.C. § 924(c) conviction be VACATED pursuant to UNITED STATES v. DAVIS, 139 S.Ct. 2319 (2019).

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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