

No. 20-7496

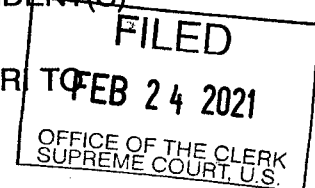
IN THE
SUPREME COURT OF THE UNITED STATES

Maurice Spriggs — PETITIONER
(Your Name)

vs.

District of Maryland — 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

Maurice Spriggs 44419-037
(Your Name)

USP Big Sardy PO Box 2068
(Address)

Ivez, D.Y 41224
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

What defines Federal Carjacking
As a crime of violence?

"
How should the "categorical approach"
be applied to determine 924(c) (1) (A)'s
force clause?

How many felonies don't involve a
substantial risk of physical force
when there committed?

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:

U.S. Court of Appeals for the Fourth Circuit
United States District Court of Maryland

RELATED CASES

Johnson v. United States, 576 U.S. (2015)
United States v. Davis, 588 U.S. (2019)
United States v. D.J.H. (2016) U.S. Dist. Wisc.
United States v. Ellis, (2010) 7th Cir.
United States v. Evans (2017) 4th Cir.
United States v. Descamps (2012) 9th Cir.

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TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

924(c)(3)(B)

18 U.S.C § 2119 Aiding and abetting
924(c)'s "residual clause"

924(c)'s "force clause"

924(c)(3)(A)

924(c)(1)(A)

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☒ is unpublished.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☒ is unpublished.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 10/8/20.

☐ 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: 10/8/20, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

MOVANT'S § 924(c) Sentence WAS imposed in Violation of Due Process of Law.

IN support hereto, petitioner submitted that because the residual clause of § 924(c)(3)(B) is unconstitutionally vague "the Federal carjacking does NOT QUALIFY AS A crime of violence § 924(c)(3)(A) because § 2119 CAN be violated by "intimidation"

Resolving a circuit split on June 24, 2019 the Supreme Court held that the residual clause in § 924(c)(3)(B)'s definition of a "Crime of violence" is unconstitutionally vague DAVIS, 139 S. Ct. at 2324-25, 2336. Thus, § 924(c)' residual clause CANNOT constitute a valid basis for characterizing a predicate crime as a crime of violence for purpose of § 924(c)

" IN light of Johnson v. U.S., 135 S. Ct. 2551 (2015) "

STATEMENT OF THE CASE

Therefore, based on the foregoing argument Aiding and Abetting carjacking in violation of 18 U.S.C. § 2119 and § 2 is not a crime of violence and cannot be used as a predicate offense for 18 U.S.C. § 924(c) and that is because for (1) the offense can be committed through "intimidation" and thus does not require violent physical force and thus does not fit within the "force clause" see United States v. D.J.H., 2016 U.S. Dist. Lexis 45454 (E.D. Wis. April 1, 2016) United States v. Ellis, 622 F.3d 484 (7th Cir 2010) (held that "intimidation did not require a threat to inflict a physical or non-physical injuries") and (2) the residual clause is unconstitutional and thus cannot be used as a result Moran's § 924(c) offense violates due process and must be vacated.

STATEMENT OF THE CASE

What the government fails to address is the "categorical approach" Davis found necessary to apply a substantive crime to § 924(c)(1)(A)'s Force clause.

In previous cases, the government has argued that the term "intimidation," as used in the statutory phrase by force and violence or by intimidation, denotes a threat to use violent force. Although some courts have agreed to be with the government, the Supreme Court did not approve the "categorical approach" to be used in a manner inconsistent with due process. The constitutional approach in the case is for this court to determine whether 18 U.S.C. § 2119 is a categorical match to § 924(c)(3)(A).

REASONS FOR GRANTING THE PETITION

"As Justice Hagen explained in *Dimaya*, Vague criminal statutes invite the ~~exercise~~ exercise of arbitrary power by leaving people in the dark about what the law demands and allowing prosecutors and courts to make it up." *Id.* at 1223-24 (Gorsuch, J concurring in part and concurring in the judgement.)

Similarly here, now that the Supreme Court has rendered the residual clause of § 924(c)(3)(B) unconstitutionally vague, the prosecutor is asking the court to apply an interpretation to a definition contained in a criminal statute when applying the "Categorical Approach" to the force clause § 924(c)

This is a violation of due process and further exceeds the Supreme Court's intent of applying the "Categorical Approach"

Intimidation is defined as UNLAWFUL COERCION (Black's Law Dictionary.)

REASONS FOR GRANTING THE PETITION

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See United States v. Evans, 848 F.3d 242-247-2 (21st Cir 2017) holding the term intimidation as used in the phrase by force and violence or by intimidation. In the enjoining statute, necessarily includes a threat of violent force within the meaning of the force clause of section 924(c)(3)

of the Supreme Court held when interpreting a statute, "we must give words their ordinary or natural meaning" See Smith v. United States, 508 U.S. 223, 229, 124 L. Ed. 2d 138, 113 S. Ct. 2050 (1993)

For the reasons stated, the statutory elements of use § 2119 do not categorically match the force clause of § 924(c)(3)(A) further, the expansion of the definition of intimidation for the purpose of applying an enhanced sentence violates due process. Therefore, petitioner ask

thus Honorable Court to Vacate his unconstitutional § 924(c) Count. Circuit Case Law (even if unanimous, as the government argues controls) carries less weight than Supreme Court jurisprudence.

The Sworn duty imposed upon this Court to uphold the Law of these United States must and shall be held inviolate. It is the duty of this Court to interpret the Law of the United States, not to make it. The latter Function belongs to the Congress of the United States. It is a fixed star in our form of government that the final arbiter of constitutional questions such as this one is the United States Supreme Court. This Court is duty bound to follow the precedent established by that Court and fully intends to do so in all matters which come before it lest "ANARCHY shall prevail within the Federal judicial system." *Hutto v. Davis*, 454 U.S. 370, 375, 702 Ed. 2d 556, 102 S. Ct. 703 (1982)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Mr. Maurice Spinggs

Date: Feb. 5 2021