

20-8256

No. 19-13707

ORIGINAL

Supreme Court, U.S.
FILED

DEC 17 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

TERRY ALONZO WILSON — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES APPEALS COURT ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Terry Alonzo Wilson
(Your Name)

U.S.P. McCreary P.O. Box 3000
(Address)

Pine Knot, Ky 42635
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) Did the lower court clearly abuse its discretion and prejudice Petitioner by intentionally connecting the charged firearm offense to a nonexistent violation of aiding and abetting a substantive Hobbs Act robbery, rather than the underlying offense of conspiracy to commit Hobbs Act robbery?
- 2) Did the lower court clearly abuse its discretion by alleging on record that Petitioner had been charged with violating a substantive Hobbs Act robbery offense, when the evidence presented on record clearly sets forth a conspiracy to commit Hobbs Act robbery?
- 3) Can the statutory language (i.e., elements) found in 18 U.S.C. § 1951(a), when viewed in the context of a substantive underlying offense, continue to support an 18 U.S.C. § 924(c)(1)(A) enhancement, when the exact same substantive statute (§ 1951(a)) fails to qualify as being a violent crime when viewed in the context of a prior conviction?

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

None

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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 United States v. Wilson, No. 19-13707; 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☒ is unpublished.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☐ is unpublished.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 July 31, 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: _____, 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

STATEMENT OF THE CASE

In this case, after having lost trial, Petitioner alleged in his initial appeal that the charged firearm offense should be vacated due to conspiracy to commit Hobbs Act robbery along with the/a substantive version of the crime failing to qualify as a crime of violence under the force clause of 18 U.S.C. § 924 (c)(3)(A), where, Petitioner relied on this Court's ruling in United States v. Davis, 139 S. Ct. 2319, 204 L. Ed. 2d (2019) to support his claim. However, in its attempt to prejudice Petitioner and disqualify his claim, the government intentionally misled the trial court into believing that Petitioner had been plainly charged with the substantive version of the Hobbs Act violation. Not only does the record in this case supports a conspiracy to commit Hobbs Act robbery, Petitioner was also given a Guidelines enhancement for his alleged leadership role in the offense, which in fact is an enhancement that could not have been employed by the court had Petitioner acted alone and/or committed a substantive version of the alleged Hobbs Act crime. Throughout the duration of the trial proceeding, the evidence presented on record elucidates a conspiracy, and the government's

act of intentionally connecting the firearm offense to a so-called substantive Hobbs Act robbery violation was done so purposely to prejudice Petitioner as the government was clearly aware of in advance of this Court's ruling in Davis, and that Petitioner would automatically qualify for relief under Davis for the 18 U.S.C. § 924(c)(1)(A) offense. Additionally, Petitioner avers that the substantive version of Hobbs Act robbery fails to qualify as a crime of violence under § 924(c)'s force clause, and its continued existence is more than prejudicial... it is also a violation of his due process.

REASONS FOR GRANTING THE PETITION

Petitioner respectfully asserts that the lower court's decision in this case conflicts with the authoritative decisions of other United States court of appeals that have addressed a very similar and/or identical matter that is indeed critical to the outcome of this case; United States v. O'Connor, 874 F.3d 1147 (10th Cir. 2017); United States v. Camp, 903 F.3d 594, 604 (6th Cir. 2018). The Seventh Circuit hinted that it might agree. See United States v. Tyler, 780 Fed. Appx. 360, 363 (7th Cir. 2019) (noting that the argument may not be frivolous but was not properly preserved). The lower court's decision is also at odds with an authoritative decision from within its own circuit; see United States v. Eason, 953 F.3d 1184 (11th Cir. 2020).

In O'Connor, the Tenth Circuit noted that a person can commit Hobbs Act robbery by means of actual or threatened force to another person or another person's property. *Id.* at 1150-51. The panel noted that, to determine whether Hobbs Act robbery was categorically a crime of violence, it must compare the scope of the conduct covered by the elements of Hobbs Act robbery with the

Although Camps, O'Connor, and Eason were cases that addressed the elements of the Hobbs

7.

Guidelines' definition of "crime of violence." The O'Connor court concluded that, because Hobbs Act robbery sweeps more broadly "than the 481.2(a) definition of robbery and extortion, even if the defendant's actual conduct would satisfy the Guide-lines' definition, Hobbs Act robbery was not categorically a crime of violence under the "enumerated offense clause." Id. at 1151-52, 1158. For the same reasons, in September 2018 the Sixth Circuit in Camp joined the Tenth Circuit holding that Hobbs Act robbery is not a crime of violence under U.S.S.G. 481.2(a)(1) (citing O'Connor, 874 F.3d at 1158). Following in the footsteps of Camps and O'Connor, the Eleventh Circuit reached the same conclusion and issued its ruling in Eason. Petitioner avers that the lower court's decision in this case is unlawful and therefore cannot continue stand, and his present situation in which he complains of is more meritorious than the claims set forth in Camps, O'Connor, and Eason, and for reasons states:

Petitioner respectfully asserts that the claim set

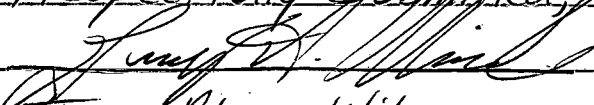
for robbery statute in the context of a prior conviction, let us keep in mind that the focus of the inquiry is that the statutory language of the Hobbs Act statute requires committing the offense "by means of actual or threatened force to another person's property," thereby rendering the statute categorically broader than the generic federal requisite of actual or threatened force to another "person." In the same breadth, § 924(c)(3)(A) consists of identical language found in § 1951(b)(1), where, § 924(c)(3)(A)'s statutory elements includes force against a person or property. See 18 U.S.C. § 924(c)(3)(A). Petitioner respectfully reiterates that generic robbery apply only to people, "not property." As such, it would be "incongruous" to hold that Hobbs Act robbery fails to qualify as a crime of violence when viewed in the context of a prior conviction due to the statute's language consisting of elements that apply to actual or threatened force being used on property, and, in the same breadth, hold that Hobbs Act robbery can qualify as a crime of violence in relation to a § 924(c)(3)(A), particularly when the provisions are "virtually mirror images of one another."

forth herein calls for an exercise of this Court's supervisory power because this matter presents an issue of importance beyond the particular facts and parties involved.

CONCLUSION

Wherefore, in light of the above, Petitioner respectfully asserts that the petition for writ of certiorari should be granted.

Date: 3/10/21

Respectfully Submitted,


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