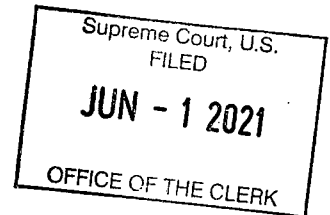


20-8475

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Plutarco A. Aguirre PETITIONER
(Your Name)

VS.

U.S. OF America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals, Second Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

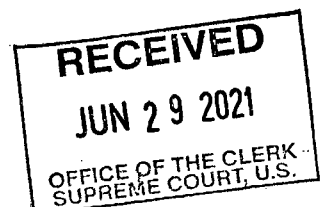
PETITION FOR WRIT OF CERTIORARI

Plutarco A. Aguirre #26954-077
(Your Name)

P.O. Box 1032
(Address)

Coleman FCI Medium, Coleman Falls
(City, State, Zip Code) 33521

(Phone Number)



QUESTION(S) PRESENTED

Whether CONSPIRACY to kidnap,
CONSPIRACY to commit Hobbs Act
Robbery, kidnapping, and conspiracy
to Hobbs Act Robbery are crimes of
VIOLENCE. UNITED STATES - Davis,
139 S.Ct. 2319.

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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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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 3/24/2021.

☒ 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: 2/13, and a copy of the order denying rehearing appears at Appendix 2/13.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including 2/13 (date) on 2/13 (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

- (1) Fifth Amendment Rights of The United States Constitution.
- (2) Sixth Amendment Rights to The United States Constitution.

STATEMENT OF THE CASE

Petitioner pled guilty to Conspiracy to Kidnap, Conspiracy to Hobbs Act Robbery, to firearm possession to A Crime of Violence, and to kidnapping. Petitioner pled guilty and was sentenced to 270 months in A Federal prison, since the year of 2008. Petitioner has exhausted all of his Appeal rights, and now pursue this writ of Certificate of Appealability for certiorari to the United States Supreme Court.

REASONS FOR GRANTING THE PETITION

petitioner understands that this Honorable Court does not have to accept this writ, because this Court has discretion as to whether or not it wants to accept any case under its discretion or not. However, petitioner is asking that this Honorable Court accept this writ because of *Davis - v - United States*, 139 S.Ct. 2319 (2019).

petitioner, therefore, state the following in this writ of certiorari, as to why a Certificate of Appealability should issue in this case back to the Lower Court, in regards to *Davis - v - United States*, 139 S.Ct. 2319 (2019).

Argument one

Whether or not A certificate
of Applicability should have
issued in regards to petitioners
Davis - United States, 139
S. Ct. 2319 (2019), claim.

At least six~~th~~ circuits have
ruled that conspiracy to kid-
nap, and conspiracy to Hobbs Act
Robbery, and Hobbs Act Robbery is
not a violent offense. See
United States - Davis, 139
S. Ct. 2319 (2019). Hobbs Act Rob-
bery, is not a crime of viol-
ence, according to United
States - Green, 996 F.3d
176 (4th Cir. 2021); Bridges -
United States, 991 F.3d 793
(7th Cir. 2021); United States -
Eason, 953 F.3d 1184 (11th Cir.);
United States - Rodriguez, 770
F. App'x 18 (3rd Cir. 2019); United
States - Camp, 903 F.3d 594
(6th Cir. 2018); United States -
O'Connor, 874 F.3d 1147 (10th
Cir. 2017). All of these cases
state that Hobbs Act Robbery is
not a violent offense. Conspired

for Hobbs A/L Abbey is not
 A valid offense according
 to Davis - unified states, 139
 Sect. 231(2019), and according to
 SIMMS - unified states, 914 F-3d
 229 (4th Cir. 2019), and unified states
 - seven eddy, 1st Cir. 2017 -
 1149, 9th Cir. 2013, and unified
 states - mobility, 2019 1st Cir.
 LEWIS 14584, the 8th Cir. of South
 Carolina, Columbia Division (2019).
 see also, unified states - truckers,
 805 F-3d 485 (4th Cir. 2015); D.M. 2/3
 138 5th Cir. 2014 (2014); Johnson -
 unified states, 135 S.Ct. 2551 (2019),
 unified states - Rocco 10-17-11078
 (5th Cir. 9-9-2019), and in re
 Hammond, 931 F-3d 1032, 1037-39
 (11th Cir. 2019) (per curiam), unified
 states - cost, 572 1st Cir.
 157, 173-174 (2014); Hill - unified
 states, 890 F-3d 456 (2nd Cir. 2018),
 Gonzales - Duenas-Alvarez, 549
 183, 193 (2007); Monaghan -
 Holder, 569 1st Cir. 184, 191 (2003).
 see also unified states -
 Baruch, 937 F-3d 126, 128
 Second Circuit held that Hobbs
 Act conspiracy does not exist -
 port, 924 (1st Cir. 2019),
 924 (1st Cir. 2019)

937 F.3d 126, 128 (2018). petitioner's conspiracy to commit Hubbs Act Robbery is unconstitutionally vague, based on Davis, and Barratt, supra. petitioner's Hubbs Act Robbery according to United States - v - Cuthbertson, 18-1223 (10th Cir. 2020), it states Hubbs Act Robbery, itself, is not a crime or violence offense. Because it categorically exceeds both the elements and the enumerated offenses clause, because it ~~cannot~~ committed against property.

Conspiracy to commit kidnapping, and kidnapping are not violent offenses. See United States - v - Walker, NO. 15-4301 (11th Cir.); United States - v - Brazier, et al, nos. 16-4258 (2019) (7th Cir. 2019).

petitioner is actually innocent of his conspiracy to Hubbs Act Robbery, conspiracy to kidnapping, Hubbs Act Robbery, and kidnapping, and possession of a firearm in regards to Title 18 U.S.C. section 924(c)(2)(A)(ii). petitioner is presently serving a portion of his sentence that is not criminal, according to all of the

Above stated cases, and Davis, supra.
 petitioner is Accused, and
 legally innocent of his
 alleged stated claims in this
 argument. petitioner is serving
 a portion of his conviction
 for counts that are not criminal
 according to Davis, supra. House
 - Bell, 547 us. 517-522 (2006).
 United States - Davis, 417 us.
 336-347 (1974), scaling - Davis,
 513 us. 295 (1995), Hill - v - United
 States, 368 us. 424-429 (1962).
 According to United States sup-
 reme court Justice, Mr. Gurn-
 such, "A Vague Law is no Law
 of all"

Abused staffed cases, and Devs, Supp-

Bucko - Davis, 137 S.Ct. 759 (2017);
Bryant - v - Estelle, 463 U.S. 880 -
893 (1983); Miller El v. Cockrell, 537
U.S. 322-332 (2003). Jurists of
Reason would have encouraged
that this case proceed further,
based on all of the above
stated Fifth and Sixth Amend-
ment Constitutional violations
in this case.

petitioner hopes and
prays that A Certificate of
Appropriateness will issue in
this case, and that it will
be remanded back to the
lower courts for further
review.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6/1/2021