

No. 21-7034

ORIGINAL

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Jeriton Lavar Curry — PETITIONER
(Your Name)

vs.

United States Court of Appeal — RESPONDENT(S)
For the Fourth Circuit

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal for the Fourth District - Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jeriton Lavar Curry
(Your Name)

Federal Correctional Complex USP-1 P.O. Box 1034
(Address)

Coleman, Florida 33521
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) Whether a conviction for Hobbs Act Robbery qualifies as a "crime of violence" under the Sentencing Guidelines, U. S. S. G. § 4B1.2(a). ?
- 2) Whether the District Court committed error, plain error, and did the error affect defendant's substantial rights?
- 3) Whether the District Court Erred, or Alternatively abused their discretion by ruling that Conspiracy to commit Hobbs Act Robbery a crime of violence predicate for Career Offender purposes of § 4B1.1. ?

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

United States V. Richard Green 996 F.3d 176 (4th cir 2021) No. 19-4703

United States V. Marlon Eason, No. 16-15413 (11th cir 2020)

United States V. Carlton Styles, No. 18-12848 (11th cir 2020)

United States V. Jeffrey Lamont Lawson, 18-12848 (11th cir 2020)

United States V. O'Connor, 874 F.3d 1147, 1150 (10th cir. 2017)

Moncrieffe V. Holder, 569 U.S. 184, 190-91 (2013)

Stokeling V. United States, 139 S. Ct. 544, 554-55 (2019)

Descamps V. United States, 570 U.S. 254, 261 (2013).

United States V. Camp, 903 F.3d 594, 600-04 (6th cir. 2018)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>Henderson V. United States</i> , 568 U.S. 266, 272, 133 S. Ct. 1121, 135 L. Ed. 2d 85 (2013);	
<i>United States V. Olano</i> , 507 U.S. 725, 732, 113 S. Ct. 1770, 123 L. Ed. 2d 508 (1993).	
<i>Molina - Martinez V. United States</i> , 136 S. Ct. 1338, 194 L. Ed. 2d 444 (2016)	
<i>Rosales - Mireles V. United States</i> , 138 S. Ct. 1897, 1908, 201 L. Ed. 2d 376 (2018).	
<i>Carthorne</i> , 726 F.3d at 510	
<i>United States V. Marlon Eason</i> , No. 16-15413 (11th Cir 2020)	
<i>United States V. Carlton Styles</i> , No. 18-12848 (11th Cir 2020)	
<i>United States V. Jefferey Lamont Lawson</i> , 18-12848 (11th Cir 2020)	
<i>United States V. O'Connor</i> , 874 F.3d 1147, 1150 (10th Cir. 2017)	
<i>Moncrieffe V. Holder</i> , 569 U.S. 184, 190-91 (2013)	
<i>Stokeling V. United States</i> , 139 S. Ct. 544, 554-55 (2019)	
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<i>United States V. Camp</i> , 903 F.3d 594, 600-04 (6th Cir 2018)	

STATUTES AND RULES

18 U.S.C.S. §1951(b)(1)
§4B1.2(a)(1)
§4B1.2(a)(2)
§2255
§2253
Fed. R. Crim. P. 52(b)

OTHER

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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 8 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 _____ 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 October 19, 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: October 19, 2021, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

The United States District Court erred in sentencing defendant as a Career offender under U.S. Sentencing Guidelines Manual § 4B1.1 because his Conspiracy to commit Hobbs Act Robbery conviction did not qualify as a crime of violence under U.S. Sentencing Guidelines Manual § 4B1.2

Jeriton Curry pled guilty to a single count of "Conspiracy" of interference with commerce by robbery - so-called Hobbs Act robbery - in violation of 18 U.S.C. § 1951. Curry's presentence report ("PSR") designated Curry as a Career Offender under § 4B1.1 of the Sentencing Guidelines, treating his Conspiracy to Commit Hobbs Act Robbery conviction as a "crime of violence." As a result, his Guidelines sentencing range, otherwise 70 to 87 months, before acceptance, became 151 to 188 months.

In his sentencing memo, Curry Objected to the Career Offender enhancement, arguing that Conspiracy to Commit Hobbs Act Robbery "is not a crime of violence as defined by USSG § 4B1.2.

The Sentencing Court overruled Curry's objection to the Career Offender enhancement. The Court appeared to rely on § 4B1.2's force clause, rather than the enumerated clause, reasoning that the elements of Conspiracy to Commit Hobbs Act Robbery "allow that offense to be treated as a predicate under the force clause."

Applying the Career Offender enhancement, the district court adopted the Guidelines range recommended by the PSR: 151 to 188 months. That range, the Court determined, was too high; even the low end of 151 months overstated the seriousness of Curry's criminal history and was more than required to provide deterrence.

The advisory Sentencing Guidelines contain a sentencing enhancement for a defendant who qualifies as a "career offender." U.S.S.G. § 4B1.1(a). A defendant is a career offender if he meets three criteria: (1) he is at least 18 at the time of the offense of conviction; (2) the "offense of conviction is a felony that is either a crime of violence or a controlled substance offense"; and (3) "the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance." The Guidelines define "crime of violence" to mean "any offense under federal or state law, punishable by imprisonment for a term exceeding one year," that either (1) "has an element the use, attempted use, or threatened use of physical force against the person of another" - a definition known as the "elements clause" - or (2) is one of a number of listed offenses in the "enumerated offenses clause."

REASONS FOR GRANTING THE PETITION

The United States Court of Appeals for the Fourth Circuit entered a decision in conflict with the decision of their own Circuit and of another United States court of appeals on the same important matter;

The Fourth Circuit entered a decision denying Curry's request for a Certificate of Appealability, in which he argued that his conviction for Conspiracy to commit Hobbs Act Robbery did not qualify as a crime of violence under U.S. Sentencing Guidelines Manual §4B1.2

The Courts decision denying Curry's COA Conflicts with their decision in United States V. Richard Green, No. 19-4703, and the decisions in other circuits such as United States V. Marlon Eason, No. 16-15413 (11th Cir 2020), United States V. Carlton Styles, No. 18-12848 (11th Cir 2020), United States V. Jeffrey Lamont Lawson, 18-12848 (11th Cir 2020) United States V. O'Connor, 874 F.3d 1147, 1150 (10th Cir. 2017), Moncrieffe V. Holder, 569 U.S. 184, 190-91 (2013), Stokeling V. United States, 139 S. Ct. 544, 554-55 (2019), Descamps V. United States, 570 U.S. 254, 261 (2013). United States V. Camp, 903 F.3d 574, 600-04 (6th Cir. 2018)

The Reasons for Granting this Petition is important because it conflicts with the decision decided in my case and other Circuits. The importance of this case will not help me but others cases as well that are similarly situated; and the ways the decision of the lower court in my case was erroneous.

(Additional pages and Argument's are attached)

In a NutShell, the Fourth Circuit denied Petitioner's request for an C.O.A ruling that Conspiracy to Commit Hobbs Act Robbery was a "qualifying conviction," "crime of violence" for Career Offender purposes, After Ruling one month prior that the Substantive "Hobbs Act Robbery" did not qualify as a crime of violence for Career Offender purposes. Therefore, this decision "clearly conflicts with the decision in Petitioners case and other Circuits, and for those reasons, this Petition should be Granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jeriton L. Curry 32815-058

Date: January 11, 2022