

No. 21-7895

In The Supreme Court of The United States

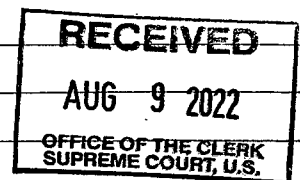
Antoine Mayes,
Petitioner,

VS

United States of America,
Respondent

On Petition For Writ of Certiorari to the
United States Court of Appeals for the Second Circuit

Petition For Rehearing



8/1/2022

Antoine Mayes
Antoine Mayes
Prisoner NO. 78351-053
US P Allenwood
P.O. Box 3000
White Deer PA 17887

MR. Mayes, Pro Se Presents this Petition For a Rehearing of the above entitled Cause, and in Support of it, respectfully Shows:

I. Grounds For Rehearing

Whether a rehearing of the decision in the matter is in the interest of justice because intervening Circumstances of a Substantial or Controlling effect or to other Substantial ground not Previously Presented; that is, the recent Decision in *United States v. Taylor*, 596 U.S. —, (June 21 2022) makes all of Mayes' 924(c) Conviction and Sentences invalid; Because The Predicate - Attempted Murder in aid of Racketeering - 18 U.S.C. 1959(a)(5) is not Categorically a Crime of Violence Under 924(c)(3)(A)'s Element Clause - where that Statute do not require the government to Prove beyond a reasonable doubt "uses, attempted use or threatened use of force."

ON June 13, 2022, this Court denied Mayes' the Petition for Writ of Cert of the Judgment of the Second Circuit. Appx/Exh 1 Copy of the Denial. Also See Appx 2/Exh. 2 Copy of Second Circuit Mandate.

On COA to the Second Circuit, Mayes argued that his 924(c) Convictions and related Sentences were invalid in light of Davis because Attempted Murder in aid of Racketeering was not Categorically a Crime of Violence. Specifically requesting the Court to hold his Case in abeyance Pursuant to the Supreme Court granting Certiorari in *U.S. v. Taylor*, NO. 20-1459. Stating: "Taylor Presents the Same issues as MR. Mayes' Case." (P. 10 Appx/Exh 2). And the COA was denied.

At the district Court level - relying on reasoning that Attempt Hobbs Act Robbery remains a Crime of Violence under 924(c)(3)(A) element Clause, the Court denied Mayes 2255. See. Mayes v. U.S. 12-CR-0385, 17-CV-6789, 2019 U.S. Dist. Lexis 204360 (E.D.N.Y. Nov. 25, 2019)

The VICAR Conviction requires Proof of Five Elements:

- (1) The organization is a RICO enterprise;
- (2) The enterprise was engaged in racketeering activity as defined in RICO;
- (3) The defendant had a Position in that enterprise;
- (4) The defendant committed the alleged Crime of Violence...;
- and (5) The Defendant's general Purpose in doing so was to maintain or increase his position in the enterprise. U.S. v. Fiel 35 F.3d 997, 1003 (4th Cir)

Giving the fact that attempted murder in aid of racketeering do not have an element the "use, attempted use or threatened use of force" The same legal reasoning in Taylor Should apply equally to 18 U.S.C. 1959(a)(5).

Conclusion

The Principal ground Cited in the District Court opinion and by Mayes On COA Waiver Crucial issue had been fully and Completely determined by the ruling of this Court in Taylor (June 2022) a Case decided a mere eight days after this Court Denial Cert. Accordingly MR. Mayes respectfully request the Court grant the Petition for rehearing of the Order entered on June 13, 2022, denying the Petition for Writ of Certiorari and Vacate that denial - grant the Writ of Cert - Vacate the Second Circuit Judgment in Docket No. 21-2119 and remand to the United States Court of appeals for the Second Circuit for further Consideration in light of United States v. Taylor (June 21, 2022)

8/01/2022

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II Certificate of Ground for Relief

I Antoine Mayes, Pro Se Certify that the grounds are Limited to United States v. Taylor, 596 U.S. — (June 21, 2022) an intervening Circumstances of Substantial or Controlling effect.

Executed ON 8/01/2022

Antoine Mayes
Antoine Mayes Prison ID no.
78357-053

III Certificate of Good Faith

I Antoine Mayes, Pro Se, Certify that this Petition for rehearing is Presented in good faith and not For delay, and that it is restricted to the grounds Specified in the Supreme Court rule 44 of the rules of this Court, That is the intervening decision in Taylor (2022)

Executed ON 8/01/2022

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III Certificate of Compliance with Word limits

As required by Supreme Court Rule 33.1(h), I Certify that this document contains less than 3,000 words, excluding the parts of the document that are exempted by Supreme Court Rule 33(d).

I declare under Penalty of Perjury that the foregoing is true and correct.

Executed on 8/01/2022

Antoine Mayes

Antoine Mayes, Prisoner ID.

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