

No. 21-8253

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

SILAS LEE SNEED, PETITIONER

v.

UNITED STATES OF AMERICA

---

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record  
Department of Justice  
Washington, D.C. 20530-0001  
SupremeCtBriefs@usdoj.gov  
(202) 514-2217

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

No. 21-8253

SILAS LEE SNEED, PETITIONER

v.

UNITED STATES OF AMERICA

---

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

Petitioner contends (Pet. 5-7) that his conviction for carrying and using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c), is infirm in light of United States v. Taylor, 142 S. Ct. 2015 (2022). In Taylor, this Court held that attempted Hobbs Act robbery, in violation of 18 U.S.C. 1951(a), does not qualify as a crime of violence under Section 924(c) (3) (A) because it does not "require the government to prove the use, attempted use, or threatened use of force." Taylor, 142 S. Ct. at 2025. Petitioner asserts (Pet. 6) that "it is unclear whether [his] Section 924(c) conviction rested on an

attempted robbery," and argues that this Court should therefore grant the petition for a writ of certiorari, vacate the decision of the court of appeals, and remand for further proceedings (GVR) so that the court below may consider Taylor's application to his case. That course is not warranted here.

1. The court of appeals correctly recognized that "the predicate crime of violence for [petitioner's] conviction for violating 18 U.S.C. § 924(c) was Hobbs Act robbery," which "qualifie[s] as a crime of violence under § 924(c) (3) (A)." Pet. App. 1a. The recognition of completed Hobbs Act robbery as a crime of violence reflects the consensus view of every court of appeals to address the issue;<sup>1</sup> does not conflict with any decision of this Court; and was unaffected by Taylor.

In Taylor, this Court held that attempted Hobbs Act robbery does not qualify as a crime of violence under Section 924(c)'s "elements clause," 18 U.S.C. 924(c) (3) (A), because "no element of attempted Hobbs Act robbery requires proof that the defendant used,

---

<sup>1</sup> See, e.g., United States v. Richardson, 948 F.3d 733, 742 (6th Cir.), cert. denied, 141 S. Ct. 344 (2020); Brown v. United States, 942 F.3d 1069, 1075 (11th Cir. 2019) (per curiam); United States v. García-Ortiz, 904 F.3d 102, 109 (1st Cir. 2018), cert. denied, 139 S. Ct. 1208 (2019); United States v. Melgar-Cabrera, 892 F.3d 1053, 1060-1066 (10th Cir.), cert. denied, 139 S. Ct. 494 (2018); United States v. Hill, 890 F.3d 51, 56-60 (2d Cir. 2018), cert. denied, 139 S. Ct. 844 (2019); Diaz v. United States, 863 F.3d 781, 783 (8th Cir. 2017); United States v. Rivera, 847 F.3d 847, 848-849 (7th Cir.), cert. denied, 137 S. Ct. 2228 (2017); United States v. Buck, 847 F.3d 267, 274-275 (5th Cir.), cert. denied, 137 S. Ct. 2231, and 138 S. Ct. 149 (2017).

attempted to use, or threatened to use force." 142 S. Ct. at 2021. In so holding, the Court reasoned, inter alia, that "the government could win a lawful conviction against [a hypothetical defendant] for attempted Hobbs Act robbery" if that defendant had merely "intended and attempted to [threaten the use of force], but \* \* \* failed" to actually "g[e]t to the point of threatening the use of force against anyone or anything." Ibid.

At the same time, Taylor observed that "to win a conviction for a completed robbery the government must show that the defendant engaged in the 'unlawful taking or obtaining of personal property from the person . . . of another, against his will, by means of actual or threatened force.'" 142 S. Ct. at 2020 (quoting 18 U.S.C. 1951(b)). The requirement of "actual or threatened force," 18 U.S.C. 1951(b)(1), differentiates completed Hobbs Act robbery from attempted Hobbs Act robbery, and it eliminates any doubt that a conviction for completed Hobbs Act robbery is a conviction for a crime that "has as an element the use, attempted use, or threatened use of physical force against the person or property of another," 18 U.S.C. 924(c)(3)(A). See Taylor, 142 S. Ct. at 2020 ("Whatever one might say about completed Hobbs Act robbery, attempted Hobbs Act robbery does not satisfy the elements clause").

2. Petitioner's suggestion (Pet. 6-7) that this Court enter a GVR order to permit further analysis of the predicate crime of violence undergirding his Section 924(c) conviction lacks merit.

In denying relief, the court of appeals explicitly observed that "the predicate crime of violence for [petitioner's] conviction for violating 18 U.S.C. § 924(c) was Hobbs Act robbery." Pet. App. 1a. The court then relied on two circuit precedents classifying completed Hobbs Act robbery to be a crime of violence under Section 924(c) (3) (A). See ibid. (citing United States v. Walker, 990 F.3d 316, 326 (3d Cir. 2021), cert. granted, judgment vacated on other grounds, No. 21-102 (June 27, 2022); United States v. Haywood, 363 F.3d 200, 211 (3d Cir. 2004)). One of those precedents involved the classification of attempted Hobbs Act robbery as well, see Walker, 990 F.3d at 330, and was itself GVR'd on that basis, see Pet. at I, United States v. Walker, No. 21-102 (Mar. 5, 2021) (questioning classification of attempted Hobbs Act robbery), but the decision below cites the portion of the opinion that addressed completed Hobbs Act robbery, see Pet. App. 1a (citing Walker, 990 F.3d at 326). And the other precedent cited in the decision below did not involve attempted Hobbs Act robbery. See Haywood, 363 F.3d at 211; see also id. at 205 (noting that the defendant "robbed [a] bar").

The record confirms the court of appeals' determination that petitioner's Section 924(c) conviction was supported by a valid

predicate offense of completed Hobbs Act robbery. Petitioner acknowledges (Pet. 3) that he engaged in a crime spree during which he "robbed one business," but notes that the indictment alleged that he also attempted "to rob two others," ibid.; see Indictment 1-4 (Counts 1-3). The indictment, however, specified that the crime of violence underlying the Section 924(c) charge was "robbery affecting interstate or foreign commerce." Indictment 5 (Count 4). And the undisputed factual basis for petitioner's guilty plea made clear that he had committed a completed robbery (Count 1) and used a firearm in furtherance of that offense. See D. Ct. Doc. No. 109, at 17 (describing how petitioner "stole approximately \$150 in cash" (including \$60 in counterfeit bills) from the Munchies Market by threatening to shoot the clerk).

The completed Hobbs Act robbery to which petitioner admitted responsibility in support of his guilty plea to all counts in the indictment precludes any contention that his Section 924(c) conviction was unsupported by a valid predicate. The court of appeals thus correctly denied relief, and the petition for a writ of certiorari should be denied.<sup>2</sup>

---

<sup>2</sup> The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General

AUGUST 2022