No. _____

In the

Supreme Court of the United States

DEJUAN ANDRE WORTHEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The elements clause provides that felonies that have as an element the use, attempted use, or threatened use of force are categorically a crime of violence under the elements clause's enhancement penalty pursuant to 18 U.S.C. § 924(c). In *United States v. Taylor*, 142 S. Ct. 2015 (2022), this Court held that attempted Hobbs Act robbery was not a crime of violence under the elements clause because the offense did not require the defendant, himself, to commit a violent act. The *Taylor* decision also held that none of the elements of attempted Hobbs Act robbery required the use, attempted use, or threatened use of force. In this case, the United States Court of Appeals for the Seventh Circuit held that the Petitioner's aiding-and-abetting Hobbs Act robbery conviction was a crime of violence under the elements clause, even though the Petitioner did not, himself, engage in a violent act and even though none of the elements of an aiding and abetting offense requires the use, attempted use, or threatened use of force. The question presented is:

Whether aiding and abetting a Hobbs Act robbery is a crime of violence under the elements clause.

CORPORATE DISCLOSURE STATEMENT

There is no parent or publicly held company owning 10% or more of a corporation's stock the disclosure of which is required under Rule 29.

STATEMENT OF RELATED PROCEEDINGS

(1) United States District Court for the Southern District of Indiana, Case No. 4:15-cr-06-SEB-VTW-02, *United States of America v. Dejuan Andre Worthen*, October 21, 2021.

(2) United States Court of Appeals for the Seventh Circuit, Case No. 21-2950, *United States of America v. Dejuan Andre Worthen*, March 2, 2023.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Dejuan A. Worthen respectfully petitions for a writ of certiorari to review the decision of the U.S. Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals (App., *infra*, 1a-11a) is reported at 60 F.4th 1066. The district court's opinion denying petitioner's motion to dismiss (App., *infra*, 12a-16a) is unreported.

JURISDICTION

The judgment of the Court of Appeals was entered on March 2, 2023. This Court has jurisdiction under 28 U.S.C. § 1254.

STATUTORY PROVISIONS INVOLVED

Section 924(j) of the U.S. Code, 18 U.S.C. § 924(j) provides in relevant part:

> A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life.

Section 924(c)(3)(A) of the U.S. Code, 18 U.S.C. § 924(c) provides in relevant part:

> For purposes of this subsection the term "crime of violence" means an offense that

> is a felony and…has as an element the use, attempted use, or threatened use of physical force against the person or property of another.

Section 1951 of the U.S. Code, 18 U.S.C. §§ 1951(a) and (b) provide in relevant part:

> (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.
>
> (b) As used in this section— (1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

STATEMENT

A. Facts And Procedural History

1. On September 21, 2014, the Petitioner, his brother, and a third party went to a gun store called Muscatatuck Outdoors in Southern Indiana. In the days before, the three men discussed and made plans to rob the store. On the day of the robbery, the Petitioner's brother carried his own gun into the store, and after a few moments, the Petitioner's brother shot and killed the store's owner. The Petitioner's brother then directed Worthen and the third man to "grab the guns." The trio stole a number of firearms and ammunition, then left the store. The Petitioner did not shoot the gun shop owner, did not carry a firearm into the store, did not himself threaten the store owner in any way, and did not demand that the store owner turn over any guns or ammunition. Rather, the Petitioner and the third individual merely aided the Petitioner's brother in robbing the store. The Petitioner did not know with absolute certainty that his brother would pull the trigger.

The three men subsequently were arrested. On March 11, 2015, a grand jury returned a four-count indictment charging the Petitioner with Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a) (Count One); Hobbs Act conspiracy in violation of 18 U.S.C. § 1951(a) (Count Two); aiding and abetting the use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. §§ 924(j) and 2 (Count Three); and the knowing theft of firearms from a firearms licensee, in violation of 18 U.S.C. § 922(u) (Count Four).

2. On April 27, 2020, the Petitioner moved to dismiss Count Three (the firearm count) on grounds that the underlying Hobbs Act robbery and Hobbs Act conspiracy categorically fail to qualify as crimes of violence under the elements clause of § 924(c). Following briefing, the district court denied the motion on July 13, 2020. The district court and the government agreed that Hobbs Act conspiracy no longer categorically constituted a crime of violence. Nevertheless, the district court denied the Petitioner's motion, concluding that completed Hobbs Act robbery does categorically qualify as a crime of violence in light of Seventh Circuit precedent. The Petitioner subsequently pled guilty to Count Three pursuant to a written conditional guilty plea; the agreement expressly permitted the Petitioner to challenge the district judge's order denying his motion to dismiss. In exchange for the Petitioner's guilty plea, the government moved to dismiss Counts One, Two, and Four of the indictment, which the district judge ultimately granted. The district court subsequently sentenced Worthen to a prison term of 360 months' imprisonment.

3. Petitioner timely filed an appeal in the United States Court of Appeals for the Seventh Circuit, and that court affirmed. The Seventh Circuit based its decision on this Court's decision in *Gonzales v. Duenas-Alvarez*, which considered whether a particular conviction for theft under California state law qualified under the categorical approach as a "theft offense" subjecting an immigrant to removal under 8 U.S.C. § 1227(a)(2)(A). This Court concluded that criminal law "uniformly" treats aiders and

abettors and principals alike, which meant that the federal definition of "theft offense" within the relevant immigration statute included aiders and abettors along with principal offenders. App., *infra,* 7a (quoting *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 189-190 (2007)).

Applying the same logic, the court of appeals concluded that the Petitioner's act of aiding and abetting a Hobbs Act robbery categorically qualifies as a crime of violence because the principal, underlying offense is a crime of violence:

> "[E]very jurisdiction—all States and the Federal Government—has 'expressly abrogated the distinction' among principals" and most aiders and abettors. *Id.* (quoting 2 Wayne R. LaFave, *Substantive Criminal Law* § 13.1(e) (2d ed. 2003)). Consistent with that principle, aiding and abetting under § 2 is "not a separate federal crime" from the underlying offense, *United States v. Sosa*, 777 F.3d 1279, 1292 (11th Cir. 2015), but is instead an alternative theory of liability for the commission of the principal offense. Put more directly, "an aider and abettor of a Hobbs Act robbery necessarily commits all the elements of a principal Hobbs Act robbery." *In re Colon*, 826 F.3d 1301, 1305 (11th Cir. 2016). And because the principal offense of Hobbs Act robbery satisfies the force clause of § 924(c), aiding and abetting a Hobbs Act robbery qualifies as a crime of violence too. See *id.*

The Seventh Circuit reached this conclusion despite this Court's contrary determination in *United States v. Taylor* that an offense can be a crime of violence under the elements clause only if the defendant actually committed a violent act. *Taylor*, 142 S. Ct. at 2020–21. This Court concluded that if it is possible to commit the offense without acting violently, then the offense is not a crime of violence. *Id.*

REASONS FOR GRANTING THE PETITION

This case presents a straightforward conflict between the United States Court of Appeals for the Seventh and the Supreme Court regarding the definition of a crime of violence under the elements clause. There is a conflict on the question of whether the elements clause of 18 U.S.C. § 924(c) requires conviction of a statute that necessitates proof that the individual defendant actually committed a violent act. In *Taylor*, this Court held that attempted Hobbs Act robbery is not a crime of violence because the elements clause requires the individual defendant, himself, to have committed a violent act. Specifically, the Court held that if none of the elements of the crime in question "always require . . . the government to prove—beyond a reasonable doubt, as an element of its case—the use, attempted use, or threatened use of force," it cannot be considered a crime of violence under the elements clause. *Id.*

In direct conflict with this Court's decision in *Taylor*, the court of appeals held that aiding and abetting a Hobbs Act robbery is a crime of violence, even though a violation of the crime does not always

require the defendant to use, attempt to use, or threaten to use of force. Relying principally upon *Gonzales v. Duenas-Alvarez*, 549 U.S. 183 (2007), the court of appeals concluded that aiding and abetting a Hobbs Act robbery is a crime of violence merely by virtue of the fact that its underlying, principal offense is a crime of violence. *United States v. Worthen*, 60 F.4th 1066, 1071 (7th Cir. 2023). This is directly at odds with the categorical approach and the holding in *Taylor*.

The Seventh Circuit's decision also conflicts with *Rosemond v. United States*, which made clear that aiding and abetting requires the government to prove different elements than the substantive, underlying offense. The elements of aiding and abetting are (1) taking an affirmative act in furtherance of the offense (2) with the intent of facilitating the crime's commission. *Rosemond v. United States*, 572 U.S. 65, 71 (2014). None of these elements requires the use, attempted use, or threatened use of force. Deviating from both *Taylor* and *Rosemond*, the court of appeals held that the Petitioner—who acted purely as an aider and abettor—committed a crime of violence even though the Petitioner, himself, did not commit a violent act. He was not the triggerman. He did not wave or brandish a firearm. And, he did not threaten the gun shop owner in any way. Instead, the Petiioner merely collected and stored the stolen firearms in the backpacks he and his co-defendants had brought. Under *Taylor* and *Rosemond*, Petitioner's actions cannot constitute a crime of violence under the elements clause.

A conflict exists between *Duenas-Alvarez* and the holdings in both *Taylor* and *Rosemond*. Only this Court can resolve that conflict, and this case is an excellent vehicle in which to do so. The petition for a writ of certiorari therefore should be granted.

A. The Decision Below Conflicts with the Decisions in *Taylor* and *Rosemond*.

In *Taylor*, the Supreme Court held that attempted Hobbs Act robbery was not a crime of violence because neither of the offense's elements—(1) intent to take property by force or threat and (2) taking a substantial step toward achieving that object—required the defendant to commit a violent act. The *Taylor* Court explained that the elements clause of 18 U.S.C. § 924(c) requires conviction of a statute that necessitates proof that a "defendant *did* commit a crime of violence," not merely that he attempted to do so. *Id.* at 2021-22. The Court reasoned that "there will be cases, appropriately reached by a charge of attempted robbery, where the *actor* does not actually *harm* anyone or even threaten harm." *Id.* (emphasis added). Consequently, under *Taylor*, if it is possible for an offense to be committed without the defendant having *personally* used, attempted to use, or threatened to use force on another person, then that offense cannot qualify as a crime of violence under the elements clause.

Additionally, in *Rosemond*, the Supreme Court established that aiding and abetting requires the government to prove different elements than those required to be proven under the substantive, underlying offense. The *Rosemond* Court noted that "a

defendant can be convicted as an aider and abettor *without proof that he participated in each and every element of the offense*." *Rosemond*, 572 U.S. at 73 (emphasis added). As a result, a jury may convict a defendant for aiding and abetting a crime even if the government does not prove that the defendant committed each and every element of the underlying offense. Critically, this means in aiding-and-abetting Hobbs Act robbery cases that the government need not prove that the aiding-and-abetting defendant committed every element of Hobbs Act robbery.

The analyses in *Taylor* and *Rosemond* apply with equal force to the Petitioner's aiding and abetting conviction. The elements of aiding and abetting a Hobbs Act robbery are essentially the same elements as those found in attempted Hobbs Act robbery in *Taylor*. The two elements of aiding and abetting are (1) taking an affirmative act in furtherance of the offense (2) with the intent of facilitating the crime's commission. *Rosemond*, 572 U.S. at 71. Neither of these elements requires the use, attempted use, or threatened use of force. Taking an affirmative action, like the substantial step element of attempt in *Taylor*, does not require *the actor* to have *personally harmed* or *personally threatened to harm* anyone. And, intent to assist a crime, like the intent element in attempt, is nothing more than a mental state, but does not require the defendant to use, attempt to use, or threaten to use force. Also, consistent with *Rosemond*, the government need not establish elements of the underlying offense; it need only establish the elements of aiding and abetting the crime. Thus, under the formal categorical approach test, which looks exclusively at the elements

of the crime, the Petitioner's aiding and abetting conviction is not a crime of violence.

Additionally, like the defendant in *Taylor*, the Petitioner himself, according to the plea agreement and colloquy, did not commit a violent act. He did not wave or brandish a firearm. He did not pull the trigger. What the Petitioner did do was aid and abet his brother's Hobbs Act robbery. The Petitioner merely assisted his brother in collecting and storing the stolen firearms in the backpacks. *Id.* Although the Petitioner knew that his brother was carrying a gun and that the gun would potentially be used during the robbery, he did not at any point during the robbery, himself, use, attempt to use, or threaten to use force. *Id.* Accordingly, under the modified categorical approach, and consistent with the holding in *Taylor*, the Petitioner did not do anything violent and, as a result, did not commit a crime of violence under § 924(c).

B. The Decision Below Is Incorrect

The Seventh Circuit, however, reached a fundamentally different result. Relying on *Duenas-Alvarez*, the Seventh Circuit concluded that aiding and abetting a Hobbs Act robbery is a crime of violence merely by virtue of the fact that its underlying, principal offense is a crime of violence. *Worthen*, 60 F.4th at 1071. This is directly at odds with the categorical approach and the holdings in *Taylor* and *Rosemond*. The Seventh Circuit only considered whether a violent act was committed, but did not consider whether the Petitioner, himself, committed a violent act, which is entirely the purpose of the categorical approach. Although aiding and abetting

offenses require proof that the underlying offense was violated, this has no bearing whatsoever on whether the aider and abettor, himself, committed a crime of violence.

In *Duenas-Alvarez*, this Court decided whether aiding and abetting a theft offense under California state law qualified under the categorical approach as a "theft offense" that would subject an immigrant to removal under 8 U.S.C. § 1227(a)(2)(A). In that case, the defendant did not, himself, commit the theft; he merely aided and abetted the theft of another person. The Court concluded that criminal law uniformly treats aiders and abettors the same as principals. *Duenas-Alvarez*, 549 U.S. at 190. The Court held that the federal definition of "theft offense" within the relevant immigration statute included aiders and abettors along with principal offenders. *See id.* at 189–90. The analysis in *Duenas-Alvarez* is built on the fundamental assumption that an aider and abettor can be liable entirely for another individual's actions. It is this assumption, and not the categorical approach, on which the Seventh Circuit based its conclusion that aiding and abetting a Hobbs Act robbery is a crime of violence under the elements clause. *Worthen*, 2023 WL 2326098, at *4.

However, this assumption no longer applies in light of *Taylor*, which shifted the focus of the categorical approach analysis from the principal offender's behavior to the individualized actions of the defendant charged with having committed a § 924(c) violation:

> Whatever one might say about *completed* Hobbs Act robbery, *attempted* Hobbs Act robbery does not satisfy the elements clause. Yes, to secure a conviction the government must show an intention to take property by force or threat, along with a substantial step toward achieving that object. But an intention is just that, no more. And whatever a substantial step requires, it does not require the government to prove that the defendant used, attempted to use, or even threatened to use force against another person or his property. As the Model Penal Code explains with respect to the Hobbs Act's common-law robbery analogue, "*there will be cases, appropriately reached by a charge of attempted robbery, where the actor does not actually harm anyone or even threaten harm*." ALI, Model Penal Code § 222.1, p. 114 (1980). "If, for example, the defendant is apprehended before he reaches his robbery victim and thus before *he has actually engaged in threatening conduct*, proof of his purpose to engage in such conduct" can "justify a conviction of attempted robbery" so long as his intention and some other substantial step are present. *Id.*, at 115.

Taylor, 142 S. Ct. at 2020–21. (emphasis added).

This analysis applies with full force to this case. Here, the Petitioner did not *actually* do anything

violent. The only person who engaged in a violent act was the Petitioner's brother. So, under *Taylor*, the Petitioner cannot be convicted of having committed a crime of violence because he, himself, did not a commit a violent act.

Moreover, the *Duenas-Alvarez* defendant did not even preserve the same argument that the Petitioner is raising in his appeal: that an offense does not qualify as a crime of violence unless the least serious conduct it covers falls within the elements clause. The *Duenas-Alvarez* Court declined to consider this issue because the defendant failed to preserve this argument. As a result, the Supreme Court did not have a genuine opportunity to address this issue; had the Court done so, it might have reached a different conclusion.

Conversely, the *Taylor* Court directly considers this issue head-on. It held that attempted Hobbs Act robbery is not a crime of violence because it was possible for the actor to commit the crime without actually committing a violent act. The Court, therefore, held that attempted Hobbs Act robbery did not "always require[] the government to prove—beyond a reasonable doubt, as an element of its case—the use, attempted use, or threatened use of force." *Taylor*, 142 S. Ct. at 2020 (emphasis added). In the case at bar, the Petitioner, unlike the defendant in *Duenas-Alvarez*, raises the exact same issue argued in *Taylor*: whether it is possible to aid and abet a Hobbs Act robbery without using, attempting to use, or threatening physical force. It is for these reasons that the disposition in *Taylor*, and not *Duenas-Alvarez*, controls in this case.

Under the modified categorical approach and the holding in *Taylor*, crucial to the analysis is whether the defendant *actually committed* each and every element of the violent offense in order to be convicted of a crime of violence. If the defendant, himself, did not *actually commit* a violent act, then his actions cannot categorically qualify as a crime of violence.

Finally, the Seventh Circuit was concerned that the conclusion that aiding and abetting and abetting a Hobbs Act robbery is never a crime of violence would result in "any offense charged and committed under an aiding and abetting theory . . . not qualify[ing] as a crime of violence." *Worthen*, 60 F.4th at 1071. True, such a holding would mean that defendants who exclusively aid and abet a crime could never be convicted of a crime of violence, a result that would certainly impact several cases. The issue, however, has to do entirely with how the defendant was charged.

For example, assume there is a bank robbery. Two individuals both enter the bank with machine guns, start shooting the ceiling, approach the teller and say, "give me all of the money." Under this example, both individuals can and should be charged as having committed a crime of violence because both individuals engaged in violent acts. These individuals should be charged differently than the scenario in which there are two robbers, one robber enters the bank and the other sits in the car as a getaway driver. The getaway driver must be charged differently than the robber that entered the bank and *actually* engaged in violent behavior. Indeed, under the modified categorical approach, the getaway driver is treated

differently than the robber who entered the bank when it comes to the question of whether his actions constitute a crime of violence. Under *Taylor*, that is the necessary result. It, therefore, is incumbent upon the government to charge its cases accurately.

Under this logic, the Seventh Circuit incorrectly held that the Petitioner's aiding and abetting Hobbs Act robbery conviction was a crime of violence. The Seventh Circuit's decision is directly at odds with this Court's opinions in *Taylor* and *Rosemond*.

C. The Question Presented Is An Important And Recurring One That Warrants The Court's Review In This Case

The question presented in this case is a recurring one of substantial legal and practical importance. The Court's intervention is necessary to the provide clarity and uniformity in the law as it pertains to its analysis under the categorical approach, and to promote a fair and equitable administration of justice. This case, which cleanly presents the question presented, is an excellent vehicle for the Court's review.

1. The Seventh Circuit's decision is contrary to the categorical approach analysis and this Court's holdings in *Taylor* and *Rosemond*. The absence of this Court's intervention could "produce more unpredictability and arbitrariness" than the Due Process Clause tolerates, leaving defendants, such as the Petitioner, without fair warning about which felonies categorically will qualify as a crime of violence. *United States v. Davis*, 139 S. Ct. 2319, 2323 (2019). The Seventh Circuit's decision also contravenes this Court's longstanding adherence to

stare decisis to "'promote[] the evenhanded, predictable, and consistent development of legal principles [that] fosters reliance on judicial decisions . . . and contributes to the actual and perceived integrity of the judicial process.'" *Kimble v. Marvel Entm't, LLC*, 576 U.S. 446, 470 (2015) quoting *Payne v. Tennessee*, 501 U.S. 808, 827 (1991). In light of this tradition, this case, which presents a clear and important conflict involving two judicial opinions, cries out for this Court's review.

2. According to the Innocence Project and the National Registry of Exonerations, the rate of wrongful convictions in the U.S. is estimated to be somewhere between 2% and 10%.[1] With a prison population of about 2.3 million, there could be anywhere between 46,000 to 230,000 people incarcerated for crimes they did not commit. Here, the Petitioner was convicted of a crime he did not commit. To violate § 924(j), the Petitioner must have (1) committed a crime of violence under § 924(c), (2) used a firearm, and (3) caused the death of another person. *See* 18 U.S.C. § 924(j). Specifically, to violate § 924(j), the Petitioner necessarily had to violate 924(c). But under *Taylor*, the Petitioner did not commit a § 924(c) violation because he did not, himself, commit a violent action. He merely aided and abetted his brother's Hobbs Act robbery. Because the Petitioner has not committed a crime of violence, he necessarily did not commit a § 924(j) offense. A defendant can only be convicted of crimes as they are

[1] How Many Innocent People are in Prison? - Innocence Project, https://innocenceproject.org/how-many-innocent-people-are-in-prison/.

written by Congress, and as drafted, Sections 924(j) and 924(c), in light of *Taylor*, do not capture the Petitioner's conduct.

This distinction matters because the guideline provisions under Sections 924(j) and 1951 have two fundamentally different starting points. While the mandatory maximum for completed Hobbs Act robbery under Section 1951 is 20 years, the maximum penalty for a § 924(j) violation is life imprisonment. Even if the government prosecuted the Petitioner for aiding and abetting a completed Hobbs Act robbery, his sentence should not have been any greater than 20 years. Yet, the Petitioner was convicted under § 924(j) and sentenced to 30 years, which is 120 months greater than the mandatory maximum for completed Hobbs Act robbery.

It would be unconstitutional to allow the Petitioner to remain convicted of a crime that he did not commit, especially when such a conviction warrants additional time in prison. Allowing the Petitioner's conviction to stand would be a miscarriage of justice and would violate the Petitioner's right to Due Process under the United States Constitution. *See In re Winship*, 397 U.S. 358 (1970) (a defendant may not be convicted of a crime unless the prosecution meets the burden of proving beyond a reasonable doubt every element of the crime charged); *see also Turner v. United States*, 396 U.S. 398, 430 (1970) (BLACK, J., dissenting) (as long as a particular jurisdiction requires proof beyond a reasonable doubt, then the Due Process Clause commands that every trial in that jurisdiction must adhere to that standard); *Ramirez v. Jones*, 683 F.2d 712, 715 (2d Cir. 1982).

3. This case presents a perfect opportunity for this Court to clarify what it means to use "force" under the elements clause. Congress explicitly defined a crime of violence as a felony that has an element *the actual* use, attempted use, or threatened use of force. Congress, however, did not specify whether a § 924(c) violation could occur if the defendant does not, himself, *personally* use force. In *Taylor*, this Court made clear that a defendant can be convicted of a crime of violence under the elements clause only if the defendant, himself, committed a violent act. Contrary to this Court's opinion, the Seventh Circuit held that Petitioner committed a crime of violence for aiding and abetting another individual's crime of violence, even though the Petitioner, himself, did not commit a violent act. This is directly at odds with *Taylor* as well as the categorical approach, and could foster ambiguity, inconsistency, and confusion in our criminal justice system. Such a result could "produce more unpredictability and arbitrariness" than the Due Process Clause tolerates, leaving ordinary people, like the Petitioner, without fair warning about which felonies categorically will qualify as a crime of violence. *Davis*, 139 S. Ct. at 2323. As a result, this case presents an excellent opportunity for this Court to resolve this ambiguity and to reconcile what it means to use force under the elements clause.

4. This case is an apt vehicle in which to decide the question presented: whether the Petitioner's aiding and abetting conviction qualifies as a crime of violence is a pure question of law, and it formed the sole basis for the Seventh Circuit's decision below. There is no threshold obstacle to reviewing and resolving that

question in this case. In addition, the Seventh Circuit comprehensively analyzed the arguments below. Moreover, this is a question that will arise numerous times as courts wrestle with the tensions between *Taylor* and *Duenas-Alvarez*. Accordingly, this case provides the Court with an excellent opportunity to consider and resolve the question presented.

Under *Taylor*, there is no basis in law or logic to conclude that the Petitioner committed a crime of violence because the Petitioner did not commit a violent act when he aided and abetted his brother's Hobbs Act robbery. The Seventh Circuit's contrary decision was erroneous, and the Court should grant the petition for certiorari to correct that error and resolve a conflict that is and will continue to affect the criminal justice system and parties across the country.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted:

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