No. __-____

IN THE
Supreme Court of the United States

NATHANIEL DANIELS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

G. ALAN DUBOIS
FEDERAL PUBLIC DEFENDER
EASTERN DISTRICT OF NORTH CAROLINA

ERIC J. BRIGNAC
CHIEF APPELLATE ATTORNEY
Counsel of Record

150 Fayetteville St., Suite 450
Raleigh, N.C. 27601
(919) 856-4236
eric_brignac@fd.org

Counsel for Petitioner

QUESTION PRESENTED

This petition provides this Court with the opportunity to resolve a question that was raised, but not addressed, by this Court's recent decision in *Wooden v. United States,* 142 S. Ct. 1063, 1068 n. 3 (2022):

Whether the Sixth Amendment requires that a jury, rather than a judge, resolve whether prior crimes were "committed on occasions different from one another" for purposes of applying the 18 U.S.C. § 924(e) Armed Career Criminal Act sentencing enhancement.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Nathaniel Daniels respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The Fourth Circuit's Opinion affirming Mr. Nathaniel Daniels' sentence is attached at Pet. App. 1a and is unreported.

LIST OF PRIOR PROCEEDINGS

1. *United States v. Nathaniel Daniels,* No. 5:19-cr-212-FL-1, United States District Court for the Eastern District of North Carolina.

   Final judgment entered on April 8, 2021.

2. *United States v. Nathaniel Daniels,* No. 21-4171, United States Court of Appeals for the Fourth Circuit.

   Opinion issued on April 18, 2022.

JURISDICTION

The Fourth Circuit issued its opinion on April 18, 2022. Pet. App. 1a. This Court's jurisdiction over this timely petition rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Amend VI:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed . . .

18 U.S.C. § 924(e)(1):

> [The Armed Career Criminal Enhancement applies] [i]n the case of a person who violates section 922(g) of this title and has three previous convictions . . . for a violent felony or a serious drug offense, or both, committed on occasions different from one another . . .

STATEMENT OF THE CASE

The Armed Career Criminal Act ("ACCA") sentencing enhancement applies to individuals with three or more qualifying predicate convictions "committed on occasions different from one another." 18 U.S.C. § 924(e)(1). This Court recently decided *what* facts must be found to determine whether an individual's predicate convictions occurred on different occasions. *See Wooden v. United States,* 142 S. Ct. 1063 (2022). This petition presents the companion question: *Who* should find those facts?

Under *Apprendi v. New Jersey,* 530 U.S. 466 (2000), and its extensive progeny, the answer is clear: The jury—not the sentencing judge—must make these findings *about* the prior convictions. Mr. Daniels has preserved this question throughout this litigation and presented it to the Fourth Circuit, which rejected it

on its merits. This Court should grant review in order to resolve this question left open by *Wooden*.

The facts presented by this case are simple. In January 2019, officers from the Raleigh (NC) Police Department investigated an illegally parked car and discovered Mr. Daniels with a handgun in his waistband. Based on this incident, a grand jury sitting in the Eastern District of North Carolina indicted him on one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).

Mr. Daniels pleaded guilty to the indictment. In preparation for sentencing, the United States Probation Office prepared a presentence report, which advised that the district court should apply the ACCA enhancement based on three prior North Carolina convictions. Mr. Daniels objected to the enhancement. The district court overruled the objection, relying on these three convictions to support the enhancement:

- A conviction for North Carolina Robbery with a Dangerous Weapon that allegedly occurred on April 20, 1996;
- A conviction for North Carolina Burglary that allegedly occurred on April 15, 1996;
- A conviction for North Carolina Breaking or Entering that allegedly occurred on May 8, 1996.[1]

Mr. Daniels was convicted and sentenced for all three of these crimes on February 3, 1997, in North Carolina state court.

[1] Mr. Daniels does not dispute in this petition that these convictions are all "violent felonies" for ACCA purposes.

The district court sentenced Mr. Daniels to 188 months of imprisonment, and he timely appealed. On appeal, he contended "that a jury should have found [whether his prior convictions occurred on different occasions], as opposed to the district court." Pet. App. a3. The Fourth Circuit, bound by its prior decision in *United States v. Thompson*, 421 F.3d 278, 285 (4th Cir. 2005), rejected his argument and issued a short unpublished decision affirming his sentence. Pet. App. a1-a4.

This petition follows.

REASON FOR GRANTING THE PETITION

This Court should grant review because the Fourth Circuit has decided an important federal question in a way that conflicts with relevant decisions of this Court. Sup. Ct. R 10(c). In *Wooden,* the petitioner asked this Court to resolve what Congress meant by "occasions different from one another." But Mr. Wooden "did not raise" the more foundational question of who—the judge or the jury—gets to resolve that question. *Wooden*, 142 S. Ct. at 1068 n. 3. So this Court did not have the opportunity to address that question. Now it does.

ACCA increases the statutory sentencing range for a violation of 18 U.S.C. § 922(g) from 0-10 years to 15 years-life.[2] Thus, ACCA findings are subject to the Sixth Amendment principle that "[o]ther than the fact of a prior conviction, any fact

[2] Congress recently increased the statutory sentencing range for a non-ACCA-enhanced violation of Section 922(g) from 0-10 years to 0-15 years. *See* Bipartisan Safer Communities Act, Pub. L. No. 117-159, 136 Stat. 1313 at § 12004. Mr. Daniels committed his Section 922(g) offense when the range was still 0-10 years.

that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt." *Apprendi*, 530 U.S. at 490; *see also Alleyne v. United States*, 570 U.S. 99, 103 (2013) (same for facts that impose a mandatory minimum).

The "prior conviction" exception comes from *Almendarez-Torres v. United States*, 523 U.S. 224, 230, (1998). And this Court has limited that exception to "the simple fact *of* a prior conviction." *Mathis v. United States,* 136 S. Ct. 2243, 2252 (2016) (emphasis added). A sentencing court cannot make findings *about* the prior convictions beyond the elements of those offenses. *Id.* Specifically, "a judge cannot go beyond identifying the crime of conviction to explore the manner in which the defendant committed the offense" without raising "serious Sixth Amendment concerns." *Id.*

But the Fourth Circuit takes a different approach, holding that a sentencing court can find facts to determine whether predicate convictions occurred on "occasions different from one another" as long as the facts supporting that determination are "inherent" to the conviction. *Thompson,* 421 F.3d at 278. That court reasons that "[t]he line between facts that are inherent in a conviction and facts that are about a conviction is a common-sensical one, and there is no way that our conclusion as to the separateness of the occasions here can be seen to represent impermissible judicial factfinding." *Id.*

This approach is fundamentally incompatible with the elements-based approach to prior conviction factfinding that this Court has adopted. And this Court's review is necessary to clarify the law going forward.

This case presents a clean vehicle for this Court to address this question. It raises no other collateral issues. Mr. Daniels preserved his argument by objecting in the district court and raising it on appeal. The Fourth Circuit addressed his argument and resolved it on the merits. And the 4th Circuit's holding is fundamentally incompatible with this Court's current caselaw.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

G. ALAN DUBOIS
FEDERAL PUBLIC DEFENDER
EASTERN DISTRICT OF NORTH CAROLINA

/s/ Eric J. Brignac
ERIC J. BRIGNAC
CHIEF APPELLATE ATTORNEY
OFFICE OF THE FEDERAL PUBLIC DEFENDER
EASTERN DISTRICT OF NORTH CAROLINA
Counsel of Record
150 Fayetteville St.
Suite 450
Raleigh, N.C. 27601
(919) 856-4236
eric_brignac@fd.org

Counsel for Petitioner

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