NO. 22-_____

In the Supreme Court of the United States

WILLIE LUMARRIS BAXTER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

JOSEPH L. LEDFORD
COUNSEL OF RECORD
301 SOUTH MCDOWELL STREET
SUITE 1011
CHARLOTTE, NC 28204
(704) 376-3686
JOSEPHLLEDFORD@YAHOO.COM

FEBRUARY 3, 2023 *COUNSEL FOR PETITIONER*
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

QUESTION PRESENTED

Was the Fourth Circuit's rejection of the Petitioner, Willie Baxter's argument that the prior offenses for serious drug offenses included in a prior indictment should not be considered predicate offenses under 18 U.S.C. § 924(e) for purposes of determining whether the Petitioner was an Armed Career Criminal inconsistent with congressional intent and an erroneous interpretation of the provisions of 18 U.S.C. § 924(e)?

LIST OF PROCEEDINGS

United States Court of Appeals for the Fourth Circuit

No. 21-4627

United States of America, *Plaintiff - Appellee,* v. Willie Lumarris Baxter, *Defendant-Appellant.*

Date of Final Opinion: November 7, 2022

United States District Court,
Western District of North Carolina

No. 3:2020cr00308

United States of America v. Willie Lumarris Baxter

Date of Final Judgment: November 2, 2021

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

FEDERAL CASES

TABLE OF AUTHORITIES – Continued

Page

STATE CASES

STATUTES

TABLE OF AUTHORITIES – Continued

Page

SENTENCING GUIDELINES

PETITION FOR A WRIT OF CERTIORARI

Willie Lumarris Baxter respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Fourth Circuit Court of Appeals (App.1a) is an unpublished per curium opinion reported at *United States v. Willie Lumarris Baxter*, 2022 U.S. App. LEXIS 30822 (4th Cir. 2022). The opinions of the district court are, unreported, however the November 2, 2021, Judgement of the Honorable Frank D. Whitney, United States District Judge, in *United States v. Baxter*, 3:20cr000308 is attached. (App.5a)

JURISDICTION

The judgment of the court of appeals was entered on November 8, 2022. (App.1a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(a).

STATUTORY PROVISIONS INVOLVED

The pertinent statutory provisions are contained in 18 U.S.C. § 924(e), which is set forth in the appendix. (App.16a).

STATEMENT OF THE CASE

The Petitioner was charged with and pled guilty to Possession of a Firearm by a Convicted Felon in violation of 18 U.S.C. § 922(g). He also admitted violations of his conditions of supervised release.

On August 24, 2010, in the Western District of North Carolina, in the Case of *United States v. Willie Lumarris Baxter*, 3:08-CR-189-FD the Petitioner was convicted of conspiracy to possess with intent to distribute cocaine base and five Counts of possession with intent to distribute cocaine base and aid and abetting the same. He received concurrent active sentences and was released from BOP custody in late 2015 on supervised release. The indictment from this prior conviction is included in at App.18a.

On October 6, 2019 the Petitioner was involved in a motorcycle accident in Gastonia, and found to have a pistol in his jacket pocket. [Jt. App. pp. 98] He was arrested and charged, in State court in Gaston County, North Carolina, with driving while impaired and failure to maintain lane control, (19CRS5658) possession of firearm by felon, (19CR61042) and carrying a concealed weapon. (19CRS61043) On December 9, 2019 he was

arrested by the United States Marshal on supervised release violations that were issued on November 26, 2019. He was detained concerning those alleged violations. The allegations underlying the supervised release violation were based on the charges in Gaston County for the above referenced state court charges.

The Petitioner was subsequently charged in the Western District of North Carolina in this case with Possession of a Firearm by Felon by way of a Bill of Information and made his initial appearance and entered a plea on September 25, 2020. A Pre-Sentence Report was prepared which designated the Petitioner as an Armed Career Offender as a result of the convictions arising from his plea of guilty to counts two through six in the above-referenced case before the Western District of North Carolina 3:08-CR-189. The pleas to the substantive Counts Two through Six in 3:08-CR-189 were in addition to his plea to Count One, a conspiracy charge. The probation officer applied a Chapter Four Enhancement raising the guideline level from a Level 20 to a Level 33 pursuant to U.S.S.G. § 4B1.4(b)(3)(B). Based upon a total offense level of 30, and a criminal history of IV, the Petitioner's guideline range would be 135 to 168 months. The probation officer determined that the Petitioner was an Armed Career Criminal and subject to the 180 month mandatory minimum sentence under 18 U.S.C. § 924(e). In paragraph 24 of the Pre-Sentence Report, the probation officer determined that:

> . . . the defendant has at least three prior convictions for a serious drug offense, Possession with Intent to Distribute Cocaine Base and Aiding and Abetting Same (Cts. 2-6 of 3:08CR-00189) were committed on different occasions.

> Therefore the defendant is an armed career criminal . . .

The Petitioner filed objections to the pre-sentence report relating to his designation as an Armed Career Criminal, asserting that he had been incorrectly so designated. In the Final Pre-Sentence Report, the Probation Officer recommended no changes to the Report but acknowledged that if the Petitioner was correct and the Court allowed and affirmed his objections, then in such event he would his Total Offense Level would be 17 and his Criminal History Category would be III, resulting in a guideline imprisonment range of 30-37 months and his fine range would be $10,000 to $95,000. The primary issue for sentencing was whether the Petitioner was an Armed Career Criminal. The Petitioner's sentencing was held on October 27, 2021. At sentencing, the government argued that the defendant was an Armed Career Criminal. The Court agreed and sentenced the defendant to 180 months to run consecutively to any undischarged term of imprisonment imposed in any State or Federal Court. The Petitioner gave timely Notice of Appeal to the Fourth Circuit Court of Appeals on November 10, 2021. The Fourth Circuit Court of Appeals affirmed in an unpublished *per curiam* opinion. As a note, on the same day, the court sentenced the defendant to one consecutive month of imprisonment for the supervised release violation. That case was not appealed. The State charges were dismissed as a result of the federal charges.

The facts in this case were those contained in the Factual Basis filed on September 15, 2019 Offense Conduct in the district court and paragraph 13, Relevant Conduct of the pre-sentence report. These provide:

> On October 6, 2019, in Gaston County, North Carolina, within the Western District of North Carolina, and elsewhere, the defendant, WILLIE LUMARRIS BAXTER, knowing that he had previously been convicted or one or more crimes punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, one or more firearms, that is one Taurus 9mm handgun, all in violation of Title 18, United States Code, Section 922(g)(1)

The Petitioner agreed to the factual basis at his plea, at sentencing and did not object to paragraphs 10 and 13 of the pre-sentence report. He had no issue with the core facts of the allegations that he possessed a firearm, being a convicted felon. In his allocution at sentencing, the Petitioner explained how he came to be in possession of a firearm:

> In retrospect of serving eight and a half years from my 2008 conviction upon release in 2015 to act upon my life changing decisions of staying out of trouble, gainfully getting employment at Freightliner in Gastonia, one of the top paying companies in my area, becoming unionized in the process, also furthering my mechanical schooling, working on cars and helping as much as possible in my community. In all, I am trying to give back for roughly four years I have been on an optimistic path, your honor.

> Things changed on October 6, 2019, when I got the call to check on my daughter. Getting a call like this took me totally by surprise. Not taking time to think and assess my personal situation, I was on the move.
>
> A combination of alcohol, working overtime, and protecting my daughter clouded my judgment. The need to defuse and relinquish any threat is all I was thinking. Pulling up and seeing her visibly moved, I wanted her away from that area.
>
> Being that she trusted and respect me, I persuaded her to give me her firearm and come to my house to get it back. At the moment it was the only thing I could see fit to get her away from that area.
>
> Yes, I know it was a careless and thoughtless move, but, your Honor, I have been gone away so long I didn't know what to expect of this type of situation. Fear drove me to see my daughter safe.
>
> On my way home, I had a wreck on my motorcycle. I woke up in the hospital getting stitched up. I totaled my bike. Multiple cuts and bruises and a horrific charge; gun by felon.

Based upon his 2010 plea to conspiracy in Case Number 3:08-CR-189, *United States of America v. Willis Lumarris Baxter*, in the Western District of North Carolina and five substantive counts of possession with intent to distribute cocaine base, the district court determined that the Petitioner was an Armed Career Offender pursuant to 18 U.S.C. 924(e) and sentenced him to 180 months.

REASONS FOR GRANTING THE PETITION

I. SENTENCING ERRORS—THE PANEL'S REJECTION OF THE PETITIONER'S ARGUMENT THAT THE PRIOR OFFENSES FOR SERIOUS DRUG OFFENSES INCLUDED IN A PRIOR INDICTMENT SHOULD NOT BE CONSIDERED PREDICATE OFFENSES UNDER 18 U.S.C. § 924(E) FOR PURPOSES OF DETERMINING WHETHER THE PETITIONER WAS AN ARMED CAREER CRIMINAL INCONSISTENT WITH CONGRESSIONAL INTENT AND AN ERRONEOUS INTERPRETATION OF THE PROVISIONS OF 18 U.S.C. § 924(E).

The Armed Career Criminal Act of 1984, and more particularly the provisions of 18 U.S.C. § 924(e), has generated over 10,000 cases reported in Lexis Advance and is a source of much confusion and deliberation within the legal community. It is a standing joke that only probation officers truly understand Criminal History under the guidelines, and even they get confused by Career Offender and Armed Career Criminal issues. An Petitioner who has violated 18 U.S.C. § 922(g) qualifies for an enhanced sentence under the Armed Career Criminal Act if the Petitioner has three previous convictions for a violent felony or serious drug offense, or both, and those offenses were committed on occasions different from one another. 18 U.S.C. § 924(e)(1).

Numerous cases have challenged unsuccessfully the 924(e) enhancement because the three prior violent felonies or serious drug offenses were committed on the same day or the convictions were all obtained on the same day. *See e.g. United States v. Linney*, 819 F.3d

747 (4th Cir. 2016); *United States v. Brewster*, 718 F. Appx. 197 (4th Cir. 2018). Challenges of these types have been uniformly rejected.

This case presents the unique situation where the Petitioner was held to be an armed career criminal based only upon the crimes he pled to in one indictment, in one proceeding on the same day. While the Fourth Circuit court had not directly addressed this issue, it has arisen in four other circuits. In *United States v. Torres*, 961 F.3d 618 (3rd Cir. 2020), the Third Circuit held that a conspiracy conviction qualifies as an ACCA predicate offense when it encompasses defendant's other substantive predicate offenses. The Court cited, *United States v. Melbie*, 751 F.3d 586 (8th Cir. 2014), which held that a drug possession offense that occurred during the period of the ongoing conspiracy was properly an ACCA predicate because the possession offense was a discrete episode in a series of events. *Id.* at 587.

The Eleventh and Sixth Circuits appear to follow *Melbie. See. e.g. United States v. Longoria*, 874 F.3d 1278 (11th Cir. 2017) (per curiam); *United States v. Pham*, 872 F.3d 799 (8th Cir. 2017).

In the *Pham*, *Melbie*, *Torres*, and *Longoria* cases cited above, each of the defendants were found guilty of being a felon in possession of a firearm. Each was sentenced pursuant to 18. U.S.C. § 924(e) as armed career criminals, based upon their prior record. The Petitioner submits that these cases have distinguishing fact patterns relating to their criminal records.

In *Pham*, the government relied on three sets of convictions. The first, a 2003 Tennessee conviction for conspiring to deliver ecstasy. The second, two 2004

convictions for possession with intent to distribute methamphetamine and ecstasy. These offenses transpired on February 12, 2004, arising from a sale to a confidential informant at Pham's residence. The third set of convictions were two 2004 federal convictions for possession with intent to distribute methamphetamine and ecstasy based on the February 28, 2004 search of the Pham's residence.

In *Melbie*, the defendant was previously convicted in a conspiracy that ran from October 15, 1995 and September 19, 1996. According to the pre-sentence report, the conspiracy, involved the sale of 9.07 kilograms of meth. *Id.* After a search of his residence on September 19, 1996, Melbie was arrested for possession of 7 grams of methamphetamine and was sentenced to 10 years in state prison. *Id*. Melbie's arrest on September 19, 1996 was referenced in the 1999 PSR as being the end of the federal conspiracy. *Id.* at 588. The Court's opinion does not discuss the third 924(e) predicate offense. The Court did, however, hold that the federal conspiracy conviction and the state court conviction for possession of methamphetamine were predicate offenses, even though the parties agreed that the state possession charge was encompassed by the subsequent federal conspiracy. *Id.* at 588.

In *Torres*, the defendant pled guilty to a federal conspiracy which continued from July 2004 until February 2006. In the interim, he had two state drug possession charges in July of 2004 and July of 2005, which led to convictions. He also had a state felony conviction for attempted homicide. Torres challenged his sentence maintaining that because the state drug offenses were part of the drug conspiracy, the conspiracy conviction should not be counted as a separate offense

for 924(e) purposes. In pleading guilty to the federal drug conspiracy, however, he admitted to committing numerous acts which included, packing and dispensing drugs, handling money, attempting a homicide to recover stolen drugs and exercising responsibility over large amounts of crack cocaine. The Court held that the conspiracy charge itself could be a predicate offense even though it encompassed the defendant's other predicate offenses, citing *Melbie*, *Longoria*, and *Pham*.

In *Melbie*, *Pham*, and *Torres*, there was either an intervening arrest or a separate independent conviction by a state court for a specific offense. In *Longoria*, however, the Eleventh Circuit addressed the exact question presented to this Court, *i.e.* whether the ACCA's different occasions inquiry encompasses substantive drug distribution offenses that occur within the span of a conspiracy that distribute that drug. Relying on its precedent concerning the enhancement contained in 21 U.S.C. § 841(b)(1)(A), citing its prior decision in *United States v. Rice*, 43 F.3d 601 (11th Cir. 1995), and on the *Melbie* decision, and determined that it did, upholding fifteen year sentence pursuant to 18 U.S.C. § 924(e). The *Rice* decision cited as authority the Fourth Circuit decision in *United States v. Blackwood*, 913 F. 2d 139 (4th Cir. 1990).

In *Blackwood*, the Fourth Circuit Court addressed the imposition of a minimum sentence without parole pursuant to 21 U.S.C. § 841(b)(1)(A). In November of 1988, Blackwood was arrested and ultimately convicted in state court of possession with intent to distribute over 188 grams of crack cocaine. He was sentenced to life without parole pursuant to 21 U.S.C. § 841(b)(1)(A) because he committed a violation of 21 U.S.C. § 841(a)(1) having been previously convicted of two or more prior

convictions for a felony drug offense. Previously in 1981, Blackwood had been arrested for possessing large quantities of marijuana in a pickup truck he was driving. Several hours later, officers secured a search warrant and found an even larger quantity of marijuana at a motel where the defendant was staying. The defendant was indicted and convicted on two counts of possession of marijuana. He initially received consecutive five year sentences. He appealed and was awarded a new sentencing hearing by the North Carolina Court of Appeals. *State v. Blackwood*, 60 N.C. App. 150, 298 S.E.2d 196 (N.C. App. 1982). At a re-sentencing, he received two five year sentences that were to run concurrently.

After being convicted in federal court on the subsequent firearm by felon charges, the government argued that the two prior 1981 convictions were separate offenses under 21 U.S.C. § 841(b)(1)(A) and that Blackwood should receive the enhanced sentence based upon these two prior convictions. The district court agreed and Blackwood was sentenced to life imprisonment without parole. The Fourth Circuit reversed, holding that under a 21 U.S.C. § 841(b)(1)(A) analysis, prior or previous criminal convictions "means separate criminal episodes, not separate convictions arising out of a single transaction." *Blackwood*, at 146. The Court cited with approval language from the North Carolina Court of Appeals opinion:

> When a defendant is charged with two or more offenses that 'are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan' consolidation is authorized in the discretion of the court. G.S. 15A-926(a). Both charges here stem from defendant's possession with intent to sell marijuana within a limited geographical area and period of time. The charges clearly related to a series of connected acts and transactions.

Id. at 145.

Other Fourth Circuit cases have touched on the issue presented here. In *United States v. Taft*, 250 Fed. Appx. 581 (4th Cir 2007) (unpublished) an unpublished opinion, the Court rejected the defendant's argument that his prior convictions for selling cocaine to an undercover officer on February 9, 1994, February 25, 1994 and September 14, 1994 should be treated as one offense because a conspiracy charge was brought at the same time as the two substantive offenses, making them part of one criminal enterprise. A review of Pacer fails to reveal any federal conspiracy charge for Taft and the briefs and sentencing documents relating to his firearm by felon conviction are sealed, both in the Eastern District of North Carolina and in the Fourth Circuit consistent with the local and Fourth Circuit rules. Accordingly, it is unclear from the available record whether the two February 1994 sale of cocaine charges were alleged in an indictment as part of conspiracy charge referenced by the Court. It is clear from the opinion, however, that the February 1994 charges were argued by Taft to be encompassed in the conspiracy charge, but not the September 1994 crack sale

charge. *See also United States v. Letterlough*, 63 F.3d 332 (4th Cir. 1995).

Petitioner respectfully submits that no Supreme Court case has addressed this particular issue, that is, whether he can be considered to be an armed career offender where the only predicate offenses arose from and were based on his plea to a federal conspiracy charge and numerous substantive counts, all charged in the same charging documents, plead to on the same day, and sentenced on the same day. Put in another way, the only "predicate" offenses in his case were alleged in and part of the conspiracy. He submits that the Court should reject the one day armed career offender status.

While the specific issue raised by this appeal has been rejected by the Panel in its unpublished opinions, the Fourth Circuit, the court has recently provided guidance on the issue of whether prior offenses were committed on separate occasions under the Armed Career Criminal Act by holding that offenses are deemed to have been committed on different occasions when they arise out of a separate and distinct criminal episode. *United States v. Span*, 789 F.3d 320 (4th Cir. 2015). In *Span*, the court observed that even offenses committed on the same day or in a span of a few hours could be considered as separate and distinct episodes if they do not arise from a continuous course of criminal conduct. The court went on to state that the Armed Career Criminal Act extend only to predicate offenses that are isolated with a definite beginning and ending, constituting an occurrence unto themselves. *Id*. The court established factors for guidance in determining whether offenses have been committed on occasions different from one another. These are:

(1) Whether the offenses arose in different geographic locations;

(2) Whether the nature of each offense was substantively different;

(3) Whether offense involved different victims;

(4) Whether each offense involved different criminal objectives; and

(5) Whether the Petitioner had the opportunity after committing the first in time offense to make a conscious and knowing decision to engage in the next in time offense.

Id. at 328, *citing United States v. Letterlough*, 63 F.3d 332 (4th Cir. 1995).

The court declined to prioritize any factor and observed that the factors could be viewed independently or together. The court also advised that any one factor with a strong presence can segregate an extended criminal episode into a series of separate and distinct episodes. *Id.*

This case presents the unique question of whether substantive offenses charged as overt acts in the furtherance of a conspiracy charge are individual offenses or whether they are part of a course of conduct in furtherance of the conspiracy, thus merging or being grouped in the conspiracy as a single offense.

For the government to establish a conspiracy under 21 U.S.C. § 846, it must prove that the Petitioner voluntarily entered into an agreement to commit acts that themselves would be a violation of 21 U.S.C. § 841 and that the Petitioner was aware of and had know-

ledge of the conspiracy and that the Petitioner knowingly and voluntarily became a part of and participated in the conspiracy. *United States v. Mastrapa*, 509 F.3d 652 (4th Cir. 2007); *United States v. Howard*, 773 F.3d 519 (4th Cir. 2014). Given the clandestine and covert nature of conspiracies, the government often has to prove the existence of a conspiracy by the use of circumstantial evidence. *Id.*, *United States v. Burgos*, 94 F.3d 849 (4th Cir. 1996)(*en banc*). Standing by itself, the mere buyer-seller relationship is not sufficient to support a conviction for conspiracy. *United States v. Hackley*, 662 F.3d 671 (4th Cir. 2011). Evidence of the buyer-seller relationship is probative and relevant on the issue of whether the necessary conspiratorial relationship exists. *Id.; United States v. Mills*, 995 F.2d 480 (4th Cir. 1993).

"Evidence of continuing relationships and repeated transaction can support the finding that there was a conspiracy, especially when coupled with substantial quantities of drugs." *United States v. Reid*, 523 F.3d 301, 317 (4th Cir. 2008), (citing *Burgos*, 94 F.3d at 858).

The Petitioner respectfully submits that a federal conspiracy is a continuing event with a starting point in time and is ongoing and continuing until it's ending, usually resulting in the arrest of a defendant for the whole sum of the events. Given the application of the guidelines in conspiracy cases, the substantive offenses are important yet seldom affect the sentencing outcome. They are critically important; however, the government must prove the existence of the conspiracy. In theory, the government could have charged the Petitioner after the first transaction. Instead, the government wisely chose to stretch out the existence of the conspiracy by having the confidential informant arrange

and make subsequent buys, each time getting higher quantities and making the conspiracy charge more serious after having obtained over 500 grams of crack triggering the mandatory minimum sentences in place at the time. Ultimately, under the unique facts of this case, the conspiracy, and each and every act to support it, was one criminal episode

This analysis comports with the factors delineated in *Span*. All of the transactions involved the same law enforcement agents. The same undercover operative was involved in each transaction. The transactions were controlled by the Gastonia vice squad. All of the transactions were essentially identical except for quantity and price. The offenses all involved the same victim, *i.e.* the people of the Western District of North Carolina and each of the offenses involved he same criminal objective from both the Petitioner's and the government's perspective. In reality each event was a continuation of the prior event. Certainly from the government's perspective it was a short period of activity resulting in the ultimate objective of making a conspiracy case involving over 500 grams of crack cocaine. Conspiracies themselves are continuing in nature and evolve with each act in furtherance. This is particularly so in light of the law that had the case gone to trial, the government would not have been required to prove all of the transactions to obtain a conspiracy conviction. Merely one act in furtherance thereof would have been sufficient circumstantial evidence of the conspiracy. That there was more than one overt act alleged, and plead to, does not diminish the continuing and ongoing nature of the ultimate criminal transaction, the conspiracy against the United States. The convictions in 3:08-CR-187 should be considered

as one offense. A greater entity made up of smaller parts; that is the very definition of a conspiracy.

Conspiracies fundamentally encompass and absorb the underlying overt substantive acts. Proof of the conspiracy is dependent upon those criminal acts. This is a unique situation altogether different from the plethora of state court cases that resulted in pleas where the Petitioners pled to multiple violent crimes or serious drug felonies on the same day, or had completely unrelated criminal acts that occurred within a short time. Each of those events were standing on their own feet and factual basis. The federal conspiracy and the substantive offenses which brought the conspiracy charge to life have a unifying and symbiotic relationship. A conspiracy is like a hydra, one beast with many heads. To cut off one does not slay the body. It survives.

The Petitioner respectfully submits that the unique circumstances of his case require further attention and review. He believes that Congress never intended that a person should be designated as an armed career criminal where his status would be based on one conspiracy, and the substantive counts charged in that conspiracy, in other words, a one day career offender. He believes that the various courts that have addressed this question have applied to broad an analysis for inclusion as an armed career offender. He submits that the guideline commentary provides the best guidance. The Sentencing Commission expressed its' views on conspiracy and the substantive offenses arising therefrom in the provisions of U.S.S.G. § 4A1.2. Under this guideline, which provides Definitions and Instructions for computing criminal history. Sub-section (a)(1) provides that a prior sentence means any sentence

previously imposed upon adjudication of guilt, for conduct that is not part of the instant offense. U.S.S.G. § 4A1.2(2) addresses how multiple prior sentences are to be counted and provides:

> Prior sentences are counted separately if the sentences were imposed for offenses that were separated by an intervening arrest (*i.e.* the defendant is arrested for the first offense prior to committing the second offense). If there is no intervening arrest, prior sentences are counted separately UNLESS (A) the sentences resulted from offenses contained in the same charging instrument; or (B) the sentences were imposed on the same day. (Emphasis added)

The Petitioner respectfully submits that the analysis of the sentencing commission is most consistent with congressional intent to punish harshly those individuals who are repeatedly charged and convicted in court for serious drug offenses or violent crimes who leave the courtroom and return to their unlawful and dangerous activities. He believes that the "one day" armed career criminal scenario wherein individuals are charged in and plead to an indictment alleging conspiracy and multiple substantive counts should be considered to be one offense for purposes of the Armed Career Criminal Act. He respectfully submits that the interpretations to the contrary are too broad, and urges this Court to review this case.

CONCLUSION

The Petitioner, Willie Lumarris Baxter, respectfully requests that the petition for a writ of certiorari should be granted.

Respectfully submitted,

JOSEPH L. LEDFORD
COUNSEL OF RECORD
301 SOUTH MCDOWELL STREET
SUITE 1011
CHARLOTTE, NC 28204
(704) 376-3686
JOSEPHLLEDFORD@YAHOO.COM

COUNSEL FOR PETITIONER

FEBRUARY 3, 2023