

ORIGINAL

AUG 23 2023

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

IN THE

SUPREME COURT OF THE UNITED STATES

Toddell Alexander — PETITIONER
(Your Name)

VS.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

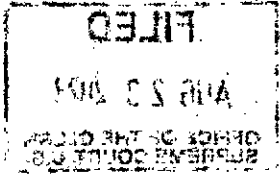
Toddell Alexander #54098-509
(Your Name)

P.O. Box 2000 USP-Hazelden
(Address)

Bruceston Mills, W.V. 26575
(City, State, Zip Code)

(Phone Number)

53-2400



QUESTION(S) PRESENTED

1. Is Ohio's Domestic Violence Statute Categorically a Violent Felony
In Light of "Samuel Johnson" v. UNITED STATES 135 S. CT. 2551, 2560-63,
(2015). Also, the opinion in "Decker Johnson" v. UNITED STATES, 784 Fed Appx. 373, 2014
US App LEXIS 23897. (2014)

2. Ohio's Physical harm elements is overbroad because it involves
non-forceful acts, et. (ILLNESS)., Therefore is different from the Federal
definition of Physical Force.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

1. *United States v. Toddell Alexander*, 5:21-cr-00370 District
2. *United States v. Toddell Alexander*, 22-3448 Appellate

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 3-29-2023.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including August 26, 2023 (date) on June 23, 2023 (date) in Application No. 23 A 110.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

8th Amendment. - Bars disproportionate sentences. Cruel and unusual Punishment.

924 (e) - The application of THE ARMED CAREER CRIMINAL ACT if the defendant has 3 or more serious drug offense or violent felonies...

STATEMENT OF THE CASE

On Feb 2, 2021, Mr. Teddell Alexander (defendant) was pulled over for driving under suspension by THE AKRON POLICE. THE AKRON POLICE department found a gun in his SUV after searching the vehicle.

On May 13, 2021, The UNITED STATES DISTRICT OF NORTHERN OHIO indicted Mr. Alexander with Possession of FIREARM, 18 U.S.C. 922(a)(1), and 924 (a)(1). He was taken into federal custody July 8th, 2021, Motion of suppression was filed November 14, 2021. Hearing was held

January 12, 2022. Chief UNITED STATES DISTRICT Judge Patricia Cahon Proceeded. She ruled on the suppression and denied the suppression. January 19, 2022, Mr. Alexander changed his plea. The

plea agreement, pursuant to Rule 11(4)(2) and (c)(1)(B) contemplated the possibility of the court finding Mr. Alexander's prior felonies may qualify him for penalties under 18 U.S.C. 924(a).

Mr. Alexander objected to the PSR because the PSR found that his prior convictions would give him 15yr. enhancement. His prior convictions consists of 2005 Felonious Assault, 2011 Domestic violence, 2015 Domestic Violence. In Mr. Alexander's objections, Defense Counsel and Mr. Alexander

provided that the OHIO REVISOR CODES use of "PHYSICAL HARM" as used in the Felonious Assault and "Domestic Violence" statutes could mean a very slight harm or an illness which would remove these offenses as qualifying under ACCA as crime of violence. Ultimately Mr. Alexander was sentenced MAY 11th 2022 to the enhanced 15yrs. A timely appeal was filed challenging his

ACCA enhancement and his suppression hearing. Appeal was denied March 29, 2023. No timely

rehearing was filed due to counsels injury. Now defendant is asking for mercy from the Supreme Court, challenging the OHIO statute and Federal Physical Force compared to OHIO's Physical Harm definitions, which covers a swath of actions, Physical Harm in Ohio covers a broader non-violent actions.

Plain language of a Statute permits Prosecution for such a case See

United States v. Corp
903 F.3d 544, 62 (6th Circuit) 2018

Respectfully Submitted,
Mr. Teddell Alexander

Teddell Alexander

REASONS FOR GRANTING THE PETITION

As in *Samuel Johnson v. United States* 576 U.S. 541 (2015), and *Derrick Johnson v. United States* 784 Fed. Appx. 373; 2014 (Court of Appeals 2014), Respectively, Ohio's Domestic Violence O.R.C. 2919.25 (A) falls within the residual clause which is unconstitutional. Also, Domestic Violence contains broader actions to be convicted. Physical harm contains elements that's contains no force in Ohio's definition of physical harm. O.R.C. 2901.01 defines Physical harm as any injury, illness or other physiological impairment regardless of its gravity or duration. It contains "ILLNESS" which is a non-forceful act, physiological impairment which is not defined in Ohio, but defined in the Collegiate Webster dictionary as "characteristic of or appropriate to in organism's healthy or normal functioning & differing in, involving, or affecting physiological factors (an strain of bacteria)..." Physiological Impairment can be done with non-forceful acts. See *State v. Vore*. "Physical harm" in Ohio is therefore broader than "Physical Force" by Federal definition. This has been an ongoing debate on whether "Physical force and physical harm" is the same in many districts. In *Garrison v. United States*, The government quoted "that to some extent by definition" they are similar but, failed to give an overbreadth analysis of Ohio's Domestic Violence Statute read in assumption of force that the statutory language does not include. Its plain language requires only that the perpetrator "cause or attempt to cause physical harm." Many other states such as Missouri and Ohio have similarly worded physical harm statutes. See *Derrick Johnson case*, which briefly mentions Ohio statute. Domestic violence can be committed with non-violent actions. See *State v. Edwards*.

People are getting enhancements over statutes that cover non-forceful and non-violent actions. If you put an non-violent instant offense, coupled with non-forceful prior, you have individuals incarcerated for an unconstitutional amount of time that violates the 8th Amendment. As with Missouri statute, Ohio and many other states has people that is getting enhanced over broadly worded statutes. The Federal definition of the ACCAS modified categorical approach says to look at the least criminalized acts, see *Monroe v. Hester*. If you correctly apply this approach, a 942G would not have 15YRS on enhancements off of a broadly worded statute that criminalizes non-forceful acts. I stand for the many inmates and Judges that would like to see a change.

Respectfully Submitted,
Turrell Alexander

E. J. C.

CONCLUSION

Mr. Alexander believes Ohio's Physical Harm elements, and Ohio's Domestic Violence Statute both contain non-violent and non-forceful actions, in light of Derrick Johnson's opinion, and Samuel Johnson's opinion.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Toddell Alexander *Toddell Alexander #54098-509*

Date: 8-23-23