

IN THE
Supreme Court of the United States

CHRISTOPHER RAYQUAZ SINGLETARY,
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

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QUESTION PRESENTED

Whether Hobbs Act robbery, as proscribed by 18 U.S.C. § 1951(a), categorically qualifies as a crime of violence under 18 U.S.C. § 924(c), in light of this Court's decision in *United States v. Taylor*, 142 S. Ct. 2015 (2022).

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

OPINION BELOW

The Fourth Circuit's published opinion is available at 75 F.4th 416 (4th Cir. 2023); *see also infra*, Pet. App. 1a.

LIST OF PRIOR PROCEEDINGS

- (1) *United States v. Christopher Rayquaz Singletary*, United States District Court, Eastern District of North Carolina, No. 5:18-CR-97-D-1 (final judgment entered May 29, 2019).
- (2) *United States v. Christopher Rayquaz Singletary*, United States Court of Appeals for the Fourth Circuit, No. 19-4381, 984 F.3d 341 (4th Cir. 2021).

(3) *United States v. Christopher Rayquaz Singletary*, United States District Court, Eastern District of North Carolina, No. 5:18-CR-97-D-1 (final judgment entered July 12, 2021).

(4) *United States v. Christopher Rayquaz Singletary*, United States Court of Appeals for the Fourth Circuit, No. 21-4351, 75 F.4th 416 (4th Cir. 2023).

JURISDICTION

The Fourth Circuit issued its opinion on August 1, 2023. Pet. App. 1a. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

STATUTES INVOLVED

1. Title 18, United States Code, Section 1951(a) provides:

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.

2. Title 18, United States Code, Section 1951(b)(1) provides:

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.

3. Title 18 of the United States Code, Section 924(c)(3) defines a “crime of violence” as:

(3) For purposes of this subsection the term “crime of violence” means an offense that is a felony and—

- (A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

STATEMENT OF THE CASE

A. District Court Proceedings

Petitioner pled guilty in 2019 to one count of Hobbs Act robbery and aiding and abetting, in violation of 18 U.S.C. §§ 2 & 1951 (Count One) and one count of brandishing a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c) (Count Two). App. 1a at 2. At sentencing, the district court imposed 156 months of imprisonment and five years of supervised release. Petitioner appealed to the Fourth Circuit, which vacated the sentence and remanded the case for resentencing. *United States v. Singletary*, 984 F.3d 341 (4th Cir. 2021). At resentencing, the district court increased the sentence to 162 months' imprisonment. App. 1a at 5. Petitioner again appealed to the Fourth Circuit.

B. Court of Appeals Proceedings

On appeal, the Fourth Circuit rejected Petitioner's argument that the increase to his sentence following the successful appeal impermissibly created the appearance of judicial vindictiveness. The court of appeals likewise rejected Petitioner's assertion that Hobbs Act robbery is not a crime of violence under 18 U.S.C. § 924(c). The Fourth Circuit thus affirmed the district court. *United States v. Singletary*, 75 F.4th 416 (4th Cir. 2023). This petition followed.

REASONS FOR GRANTING THE PETITION

The district court erred in sentencing Petitioner under 18 U.S.C. § 924(c), because the predicate offense, Hobbs Act robbery, does not categorically qualify as a crime of violence in light of this Court’s decision in *United States v. Taylor*, 142 S. Ct. 2015 (2022). This is so for two reasons:

First, the Hobbs Act statute is an indivisible offense with alternative means—at least one of which, attempted robbery, falls outside of § 924(c)’s “crime of violence” definition after *Taylor*.

Second, Hobbs Act robbery can be committed by threatening economic harm, which is not a threat of physical force under § 924(c) after *Taylor*’s rejection of the “realistic probability” test.

Because Hobbs Act robbery does not categorically qualify as a crime of violence for purposes of § 924(c), Petitioner’s § 924(c) conviction cannot be sustained and must be vacated.

A. 18 U.S.C. § 1951(a) is indivisible and categorically overbroad.

In *Taylor*, this Court held that attempted Hobbs Act robbery is not a crime of violence under the elements clause of § 924(c)(3)(A).¹ *Taylor*, 142 S. Ct. at 2020. *Taylor* explained that “[t]o determine whether a federal felony may serve as a predicate for a conviction and sentence under the elements clause . . . we must apply a ‘categorical approach.’” *Id.* Under the categorical approach, Hobbs Act

¹ This Court has held that the residual clause of § 924(c)(3)(B) is unconstitutionally vague. *United States v. Davis*, 139 S. Ct. 2319 (2019).

robbery is overbroad and does not 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. This is because Hobbs Act robbery is an indivisible offense encompassing both attempted robbery and conspiracy to rob, *see* 18 U.S.C. § 1951(a), neither of which require physical force. A criminal statute is divisible when it “list[s] elements in the alternative, and thereby define[s] multiple crimes.” *Mathis v. United States*, 579 U.S. 500, 505 (2016). But a statute that merely lists “alternative means of satisfying one (or more) of its elements” is indivisible. *Id.* at 503. Because § 1951(a) does not list elements in the alternative, but instead provides for alternative means of committing a single crime, the statute is indivisible. And because attempted Hobbs Act robbery is not a crime of violence, *see Taylor*, the statute is overbroad. Hence, Petitioner’s § 924(c) conviction is invalid and should be vacated.

B. Substantive Hobbs Act robbery may be committed without the use, attempted use, or threatened use of physical force.

Even if § 1951(a) is a divisible offense, it is nonetheless overbroad, because it does not 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. “Physical force” means “*violent* force” – that is “strong physical force,” that is “capable of causing physical pain or injury to another person.” *Johnson v. United States*, 559 U.S. 133, 140 (2010) (emphasis in original). But completed Hobbs Act robbery, as defined by § 1951(b), does not meet this requirement because it can be accomplished by putting someone in fear of future

injury to his person or property, which does not require the use, attempted use, or threatened use of “violent force.” *See* 18 U.S.C. § 1951(b)(1) (“[R]obbery means the unlawful taking . . . from the person or in the presence of another, against his will, by means of . . . fear of injury, immediate or future, to his person or property . . .”); *accord United States v. Louis*, No. 21-CR-20252, 2023 WL 2240544 (S.D. Fla. Feb. 27, 2023) (dismissing § 924(c) count based on “a categorically overbroad Hobbs Act robbery offense, which allowed for the commission of Hobbs Act robbery by ‘fear,’ including fear of financial loss). Because the plain text of § 1951(b)(1) encompasses a robbery accomplished through mere “fear of injury, immediate or future, to . . . property” instead of physical force, Hobbs Act robbery is facially overbroad.

Taylor makes plain that § 1951(b)(1)’s statutory overbreadth ends the inquiry: “Congress tasked the courts with a . . . straightforward job: Look at the elements of the underlying crime and ask whether they require the government to prove the use, attempted use, or threatened use of force.” *Taylor*, 142 S. Ct. at 2025. Indeed, this Court in *Taylor* explicitly rejected the government’s argument that there existed no “realistic probability” that a defendant would be prosecuted for conduct that falls outside the federal generic definition. *Id.* Instead, *Taylor* explains, “[t]he statute before us asks only whether the elements of one federal law align with those prescribed in another.” *Id.* Because the straightforward text of § 1951(a) encompasses robbery committed without the use, attempted use, or threatened use of physical force, the offense does not categorically qualify as a crime of violence under 18 U.S.C. § 924(c). Thus, Petitioner respectfully requests that this Court

grant the petition, vacate the judgment of conviction on Count Two, and remand this case for resentencing.

CONCLUSION

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

Respectfully submitted,

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