No. 24-

IN THE

Supreme Court of the United States

TISHEEM RICH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether "Hobbs Act robbery qualifies as a crime of violence under § 924(c)(3)(A), a question left open after" *United States v. Taylor*, 596 U.S. 845 (2022). *United States v. Stoney*, 62 F.4th 108, 113 (3d Cir. 2023). This question is raised in the pending petition for certiorari filed in *Barrett v. United States*, No. 24-5774 before this Court.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner Tisheem Rich and Respondent United States of America

RELATED PROCEEDINGS

United States v. Rich, No. 18-Cr-210, U.S. District Court for the Eastern District of New York. Judgment entered December 14, 2021.

United States v. Rich, No. 21-3104, U.S. Court of Appeals for the Second Circuit. Judgment entered October 15, 2024.

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PETITION FOR A WRIT OF CERTIORARI

Tisheem Rich respectfully petitions for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINION BELOW

The opinion of the United States Court of Appeals for the Second Circuit in *United States v. Tisheem Rich, aka Terror*, 21-3104-cr, 2024 WL 4489599 (October 15, 2024) (Summary Order), is not reported in the Federal Reporter but is appended hereto as Petitioner's Appendix.

JURISDICTION

The judgment of the United States Court of Appeals for the Second Circuit was entered on October 15, 2024. No petition for rehearing was filed. This petition is timely filed within the 90-day statutory time limitation. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

A "'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." 18 U.S.C. § 924(c)(3)(A).

Hobbs Act robbery is "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." 18 U.S.C. § 1951(b)(1).

STATEMENT OF THE CASE

1. On September 16, 2014, Rich and three co-defendants robbed an employee and a customer of a 7-Eleven store in Queens, New York. 2a. One of the codefendants brandished a firearm at the employee. 2a.

Rich pled guilty to the substantive September 14, 2016, Hobbs Act robbery, in violation of 18 U.S.C. § 1951 and to the brandishing of a gun in connection with that robbery in violation of 18 U.S.C. § 924(c) (1)(A)(ii). 2a. The district court in the Eastern District of New York (Kuntz, J.) imposed a sentence of 111 months of imprisonment – 27 months on the Hobbs Act conviction and 84 months (the statutory mandatory minimum and Guidelines sentence) on the § 924(c) brandishing conviction. 3a.

2. On direct appeal, Rich argued, as is relevant herein, that because *United States v. Taylor*, 596 U.S. 845, 142 S.Ct. 2015 (2022), announced a new understanding of the relationship between the Hobbs Act and 18 U.S.C. § 924(c), Rich could not be convicted of a violation of § 924(c) based on a Hobbs Act predicate crime of violence and that his § 924(c) conviction must, therefore, be vacated. 3a-4a.

Rich argued that, in *Taylor*, this Court had effectively abrogated the Second Circuit's decision in *United States v. Hill*, 890 F.3d 51 (2d Cir. 2018). *See Taylor*, 142 S.Ct. at 2024-25. In *Hill* the Second Circuit concluded that completed Hobbs Act

robbery is a crime of violence because the hypothetical applications of the statute advanced by appellant Hill failed the "realistic probability" test in *Gonzales v. Duenas–Alvarez*, 549 U.S. 183, 193, 127 S.Ct. 815, 166 L.Ed.2d 683 (2007). But *Taylor* rejected the "realistic probability" test where the elements of a federal law are in issue. *Taylor*, 142 S.Ct. at 2025.

Providing examples of situations in which the elements of a Hobbs Act robbery could be satisfied without the use of force, Rich argued that, because a Hobbs Act robbery can be committed without the intentional use of violent force as defined by *Johnson v. United States*, 559 U.S. 133 (2010), i.e., it does not have "as an element the "use, attempted use, or threatened use of force," it cannot be a predicate "crime of violence" within the definition of § 924(c)(3)(A) sufficient for a conviction under § 924(c).

3. The Second Circuit rejected Rich's argument, relying on its ruling in *United States v. McCoy*, 58 F.4th 72, 74 (2d Cir. 2023), that "nothing in *Taylor*'s language or reasoning . . . undermines this Court's settled understanding that completed Hobbs Act robberies are categorically crimes of violence pursuant to section 924(c)(3)(A)." 4a. Dismissing Rich's hypotheticals demonstrating that the elements of Hobbs Act robbery could be satisfied without violence, the Second Circuit wrote:

> We recently rejected a similar argument in *United States v. Barrett*, 102 F.4th 60 (2d Cir. 2024). There, we reaffirmed our understanding that substantive Hobbs Act robbery is a "crime of violence" for purposes of § 924(c) and rejected an analogous attempt to propound hypothetical Hobbs Act robberies that do not involve the use, attempted use, or threatened use of physical force in order to show the offense is not

> categorically a crime of violence. *Id.* at 81–83. Consequently, we must reject Rich's argument here. We are bound by rulings of prior panels and may not "disregard precedent that squarely rules on an issue simply because an earlier panel may not have considered additional arguments now proffered by a party." *Id.* at 82.

5a.

4. On October 17, 2024, Petitioner Dwayne Barrett filed a petition for certiorari with this Court asking the Court to consider whether Hobbs Act robbery qualifies as a crime of violence under 18 U.S.C. § 924(c)(3)(A) and arguing in relevant part that:

> Whether Hobbs Act robbery is a § 924(c) "crime of violence" is "an important question of federal law that has not been, but should be, settled by this Court," especially as lower courts have decided it "in a way that conflicts with relevant decisions of this Court" and accordingly gotten the wrong answer. Sup. Ct. R. 10(c).

Barrett v. United States, No. 24-5774, Petition for Certiorari of Dwayne Barrett, at p. 17.

Because the argument in *Barrett* is on all fours with the argument made in Petitioner's case, Petitioner joins the *Barrett* petition on this issue and asks that the Court consolidate his case with *Barrett* for consideration.

REASONS FOR GRANTING THE PETITION

I. Summary of the Argument[1]

The Court should answer the "question left open after *Taylor*," which is

[1] Petitioner has relied on the Petition for Certiorari filed in *Barrett*, No. 24-5774, in formulating the Summary of the Argument and the Argument herein. The first two paragraphs of this Summary of the Argument are copied in significant part from *Barrett*'s Petition at pages 2-3.

whether "Hobbs Act robbery qualifies as a crime of violence under § 924(c)(3)(A)." *United States v. Stoney*, 62 F.4th 108, 113 (3d Cir. 2023). *Taylor* resolved a "5-1" circuit split over whether "attempted Hobbs Act robbery is a crime of violence." Reply Brief for Dwayne Barrett, 2021 WL 2385535, at *5-6. "The answer matters," the Court said, as it can mean "years or decades of further imprisonment." *United States v. Taylor*, 596 U.S. 845, 848 (2022). For Rich, labeling Hobbs Act robbery a § 924(c) "crime of violence" mandated an extra 84 months of imprisonment (on the § 924(c) conviction) beyond the 27 months imposed on the Hobbs Act robbery, for a total of 111 months in prison.

This Court clarified in *Taylor* that deciding whether a crime is a § 924(c) predicate is a "straightforward job: Look at the elements." 596 U.S. at 860. And the elements of Hobbs Act robbery are such that it can be committed by threatening (1) harm to oneself or (2) nonphysical injury to property, neither of which entails "the use, attempted use, or threatened use of physical force against the person or property of another." § 924(c)(3)(A). The Second Circuit has not said that it disagreed with this approach.

Rather, in rejecting Barrett's argument (upon which it relied in rejecting Rich's as well), the Second Circuit said that it was "bound by" its decision in *United States v. McCoy*, 58 F.4th 72 (2d Cir. 2023) (per curiam). *United States v. Barrett*, 102 F.4th 60, 83 (2d Cir. 2024). *See also* 5a (referencing *Barrett*). But *McCoy* did not consider the arguments raised in *Barrett* or in *Rich*, which provided hypothetical scenarios demonstrating – as *Taylor* mandates – that the elements of Hobbs Act

robbery can be committed without the force that is integral to a "crime of violence," as defined by *Johnson*, 559 U.S. 133 (2010). By declaring itself "bound by" *McCoy*, the Second Circuit has thus created precedent at odds with this Court's mandate in *Taylor*.

At the same time, as the *Barrett* Petition notes (*Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at pp. 19-21), circuits around the country have incorrectly failed to follow *Taylor*'s instruction to "Look at the elements" and to reconsider completed Hobbs Act robbery under the elements clause of § 924(c)(3)(A). See *Taylor,* 506 U.S, at 860. Because the circuits have declined to follow *Taylor*, this Court's intervention is required to settle whether completed Hobbs Act robbery is a definitional "crime of violence."

In the alternative, the Court should hold this petition for the forthcoming "crime of violence" ruling in *Delligatti v. United States*, No. 23-825.

II. Argument

Petitioner adopts the arguments of Petitioner Dwayne Barrett (*Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at pp. 17-27) in full and joins the *Barrett* petition on this point in full, summarizing the main points in support of his petition below.[2]

[2] As noted in fn. 1, *supra*, Petitioner gratefully acknowledges the Petition of Dwayne Barrett in *Barrett v. United States*, No. 24-5447, from which a substantial portion of this argument is copied.

A. The Second Circuit Is Wrong, But Not Alone, in Declining to Apply *Taylor*'s Instruction to Completed Hobbs Act Robbery.

In *Taylor*, this Court instructed that deciding whether an offense is a § 924(c) predicate is a "straightforward job: Look at the elements." *Id.* at 860. "The only relevant question is whether the federal felony at issue always requires the government to prove" (*Taylor*, 596 U.S. at 850), the "use, attempted use, or threatened use of physical force against the person or property of another" (18 U.S.C. § 924(c)(3)(A)). Application of a "hypothetical" can "illustrate" why the answer is no. *Taylor*, 596 U.S. at 851.

The Second Circuit, however, has declined to follow this Court's example. *Compare Taylor*, 596 U.S. at 851 ("A hypothetical helps illustrate the point.") *with Barrett*, 102 F.4th at 82 (declining to consider Barrett's hypotheticals even after *Taylor*); *see also* 5a (following *Barrett*, 102 F.4th at 81-83, and declining to consider Rich's hypotheticals).

In *Barrett*, the Second Circuit acknowledged Petitioner presented "two hypotheticals" illustrating how "Hobbs Act robbery, like attempted Hobbs Act robbery, can be committed without 'the use, attempted use, or threatened use of physical force against the person or property of another.'" *Barrett*, 102 F.4th at 81 (quoting § 924(c)(3)(A)). But the *Barrett* panel concluded it was "bound by *McCoy*" and declined to consider Barrett's hypotheticals, even though the *McCoy* panel did not have the opportunity to consider the hypotheticals raised in Barrett's appeal. *Id.* at 82.

The *Barrett* panel's erroneous reliance on *McCoy* goes beyond failing to consider *Barrett*'s hypotheticals, however. *McCoy* did not analyze the crime of violence question as *Taylor* requires: it did not "[l]ook at the elements" of Hobbs Act robbery, 596 U.S. at 860, or discuss whether they "always require[] the government to prove" what § 924(c)(3)(A) demands. *Id*. at 850. Rather, *McCoy* just said that the defendants in the *McCoy* appeal had "presented no hypothetical case in which a Hobbs Act robbery could be committed without the use, attempted use, or threatened use of force against another person or his property." 58 F.4th at 74. For this reason, the *McCoy* panel deferred to the Second Circuit's "settled understanding that completed Hobbs Act robberies are categorically crimes of violence pursuant to section 924(c)(3)(A)." *McCoy*, 58 F.4th at 74 (referencing *United States v. Hill*, 890 F.3d 51, 56-60 (2d Cir. 2018)).

But *McCoy*'s deference was misplaced. *Hill*'s reason for rejecting the argument that Hobbs Act robbery can be committed "without the use of physical force" was that Hill relied on "hypotheticals, not actual cases," and therefore "failed to show any realistic probability that a perpetrator could effect such a robbery in the manner he posits." 890 F.3d at 57 n.9. *Taylor* later made clear, however, the "realistic probability" test doesn't apply here: a "hypothetical" can suffice to show a crime is not a § 924(c) predicate. 596 U.S. at 851. *See also United States v. McDaniel*, 85 F.4th 176, 186 n.13 (4th Cir. 2023) (*Taylor* "clarified that . . . the 'realistic probability' test only applies when a federal court is interpreting state law.").

Thus, as Barrett summarized the Second Circuit's ruling against him, "it's based on a case (*McCoy*) that never considered his arguments, didn't perform the analysis *Taylor* requires, and deferred to a ruling (*Hill*) that employed the "realistic probability" test this Court jettisoned in *Taylor*." *Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at p. 19.

For Petitioner Rich, the same is true. The Second Circuit relied on its holding in *Barrett* to deny his appeal without consideration of his hypotheticals, in contravention of *Taylor*. 5a (In *Barrett*, "we reaffirmed our understanding that substantive Hobbs Act robbery is a "crime of violence" for purposes of § 924(c) and rejected an analogous attempt to propound hypothetical Hobbs Act robberies that do not involve the use, attempted use, or threatened use of physical force in order to show the offense is not categorically a crime of violence. *Id.* at 81–83. Consequently, we must reject Rich's argument here.").

As the *Barrett* Petition notes, the Second Circuit is not alone in refusing to reconsider its holding that completed Hobbs Act robbery is a crime of violence despite *Taylor*. Many circuits have made, and continue to make, the same error. *See Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at pp. 19-21 (collecting cases). This Court's intervention and direction is required.

B. Completed Hobbs Act Robbery Is Not a "Crime of Violence."

As *Taylor* instructed, the elements of an offense determine whether it is a § 924(c) predicate. The only question is "whether the 'least culpable' conduct that could satisfy the offense elements in a hypothetical case would 'necessarily involve[]'

the 'use, attempted use, or threatened use of physical force against the person or property of another.'" *Delligatti v. United States*, No. 23-825, Brief for the United States, 2024 WL 4374209, at *6 (citations omitted). Hobbs Act robbery does not satisfy these elements both because it can be committed by threatening harm to oneself and because it can be committed by threatening nonphysical injury to property. *See Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at pp. 21-27.

The broad language of the Hobbs Act encompasses a threat by a perpetrator made to a victim to harm himself – as the *Barrett* petition posits, the elements of the statute are satisfied by a man putting a gun to his own head and demanding "cash, or I'll pull the trigger" from his cousin. In these circumstances, the Hobbs Act is satisfied (taking of property from a person "by means of . . . threatened force, or violence, or fear of injury, . . . to . . . the person . . . of a relative or member of his family." 18 U.S.C. § 1951(b)(1). Yet, § 924(c)(3)(A) is not, because the robbery includes no attempted or threatened force "against the person or property of another." 18 U.S.C. § 924(c)(3)(A). *See also Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at pp. 21-24 (expanding this argument).

Similarly, Hobbs Act robbery can be committed by putting the victim in fear of future economic injury to his business. *See Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at p. 25 (referencing 3 Leonard B. Sand et al., *Modern Federal Jury Instructions*, Instr. 50-6) ("Fear exists if a victim

experiences anxiety, concern, or worry over . . . business loss."); *id.*, at 25-26 (collecting cases). As the *Barrett* Petition summarizes,

> The plain text of the Hobbs Act robbery definition makes clear that it will apply to force or threats against property, and fear of injury . . . to . . . property is broad enough to encompass instances of the loss of economic value rather than only a physical destruction. One may therefore commit Hobbs Act robbery without simultaneously committing a 'crime of violence,' as causing fear of future injury to property does not require 'physical force.'

Barrett v. United States, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at p. 27 (citations omitted).

For these reasons, and as further set forth in *Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, because Hobbs Act robbery can be committed without "the use, attempted use, or threatened use of physical force against the person or property of another," it does not describe a crime of violence under § 924(c)(3)(A).

III. This Case Presents an Ideal Vehicle to Address the Issues Identified Herein.

As of the date of this petition, Rich, who was remanded to the custody of the Federal Bureau of Prisons on or about July 31, 2020, has served 53 months in custody – nearly double the 27-month sentence imposed on his Hobbs Act conviction. He has no pending charges or other outstanding sentences in any jurisdiction, nor is he subject to immigration proceedings or to any other circumstance that would mandate his continued detention in the federal system or in any other jurisdiction. A ruling from this Court vacating his conviction on the §

924(c) brandishing conviction as having been obtained without a sufficient statutory predicate offense would result in his immediate release from custody. Petitioner's case thus provides a clean, streamlined vehicle for this Court's consideration of an important and recurring issue.

IV. In the Alternative, this Petition Should Be Held for *Delligatti*

On November 12, 2024, this Court held argument in *Delligatti v. United States*, considering the question whether a crime that "can be committed by failing to take action" is a "crime of violence" under § 924(c). *Delligatti v. United States*, No. 23-825, Petition for a Writ of Certiorari, 2024 WL 382517, at *i. The outcome of that case will provide further guidance on the question raised herein – how to decide "crime of violence" questions such as the one raised herein.

As the *Barrett* Petition notes (*Barrett v. United States*, No. 24-5447, Petition for Certiorari of Dwayne Barrett, at p. 29), this Court often "grants the petition for a writ of certiorari, vacates the decision below, and remands for reconsideration by the lower court" when it "believe[s] that the lower court should give further thought to its decision in light of an opinion of this Court that (1) came after the decision under review and (2) changed or clarified the governing legal principles in a way that could possibly alter the decision." *Flowers v. Mississippi*, 136 S.Ct. 2157 (2016) (Alito, J., dissenting).

More recently, the Court did just that in *Garland v. Range*, 144 S.Ct. 2706 (2024), holding the petition until the decision in *United States v. Rahimi*, 144 S.Ct. 1889 (2024) at the urging of the Solicitor General, who wrote, "although this Court's

decision in *Rahimi* may not definitively resolve the question presented here, it is likely to shed substantial light on the proper analysis of that question. Under the Court's usual practice, such overlap justifies holding the petition for a writ of certiorari pending the resolution of *Rahimi*." *Garland v. Range*, No. 23-374, Reply Brief for the Petitioners, 2023 WL 7276461, at *9.

The same is true here. While resolution of the issue raised in *Delligatti* will not definitively answer the question raised here, it "is likely to shed substantial light on the proper analysis of that question." *Range*, 2023 WL 7276461, at *9. For this reason, if the Court declines to consider the issue raised herein, it should nonetheless hold this petition for *Delligatti* and then grant it, vacate the Second Circuit's judgment and remand the case for further consideration.

CONCLUSION

The petition for a writ of certiorari should be granted. Failing that, the petition be consolidated with *Barrett v. United States*, No. 24-5447, for consideration and/or should be held for the opinion in *Delligatti v. United States*, No. 23-825.

Respectfully submitted,

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January 13, 2025

APPENDIX

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United States v. Rich

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15th day of October, two thousand twenty-four.

PRESENT:

DENNIS JACOBS,
RICHARD C. WESLEY,
BETH ROBINSON,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

v. No. 21-3104-cr

TISHEEM RICH, AKA TERROR,

Defendant-Appellant.

FOR DEFENDANT-APPELLANT: DONNA R. NEWMAN, Law Offices of Donna R. Newman, PA, New York, NY.

FOR APPELLEE: MICHAEL W. GIBALDI (Jo Ann M. Navickas, *on the brief*), Assistant United States Attorneys, *for* Breon Peace, United States Attorney for the Eastern District of New York, Brooklyn, NY.

Appeal from a judgment of the United States District Court for the Eastern District of New York (William F. Kuntz II, *Judge*).

UPON DUE CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment entered on December 14, 2021, is **AFFIRMED,** and the government's February 4, 2022 motion is **DISMISSED** as moot.

Defendant-Appellant, Tisheem Rich, appeals a judgment of conviction for Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a), and brandishing a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). He pled guilty to the offenses and admitted to robbing a 7-Eleven store in Queens with three others, one of whom brandished a gun. We assume the parties' familiarity with the underlying facts, procedural history, and arguments on appeal, to which we refer only as necessary to explain our decision.

As part of his guilty plea, Rich agreed not to appeal or collaterally attack either his conviction or sentence as long as the district court sentenced him to a term of imprisonment of 121 months or less. Rich specifically waived the right to

raise on appeal or collateral review any argument that "the statutes to which [he] is pleading guilty are unconstitutional" or that his "admitted conduct does not fall within the scope of the statutes." App'x 23.

The district court sentenced Rich to 111 months' imprisonment, with two years of supervised release to follow. He now appeals, arguing that his 18 U.S.C. § 924(c) conviction must be vacated because substantive Hobbs Act robbery does not constitute a valid "crime of violence" under that statute. The government moved to dismiss the appeal on the ground that it is barred by Rich's appeal waiver. Because we conclude that Rich's appeal fails on the merits, we AFFIRM the judgment of the district court and DISMISS the government's motion as moot.

Rich asks us not to enforce his appeal waiver for two reasons. First, he argues an appeal waiver cannot bar an individual's due process right to challenge a conviction under a statute that the Supreme Court has retroactively declared unconstitutional. Second, he argues that changes in law that affect a court's subject-matter jurisdiction cannot be waived.

Even if we accepted Rich's argument that his appeal waiver is unenforceable in this context—a question we do not reach—we would conclude that his challenge to his § 924(c) conviction fails on the merits. Rich argues that the

Supreme Court's holding in *United States v. Taylor*, 596 U.S. 845 (2022), that *attempted* Hobbs Act robbery is not a valid "crime of violence" predicate extends to *substantive* Hobbs Act robbery as well. He thus argues that his § 924(c) conviction is invalid. But our Court has already explicitly rejected this argument and concluded that "nothing in *Taylor*'s language or reasoning . . . undermines this Court's settled understanding that completed Hobbs Act robberies are categorically crimes of violence pursuant to section 924(c)(3)(A)." *United States v. McCoy*, 58 F.4th 72, 74 (2d Cir. 2023).

To explain his *Taylor*-based argument, Rich raises a hypothetical that, he contends, reveals that Hobbs Act robbery is not categorically a crime of violence. Specifically, he argues that someone can commit Hobbs Act robbery by "putting a victim in fear of economic injury to an intangible asset," including by "threatening to devalue an economic interest such as a stock holding or a contract right via defamation." Appellant's Br. at 23. According to Rich, because these examples satisfy the elements of Hobbs Act robbery but do not involve the "use, attempted use, or threatened use of physical force," substantive Hobbs Act robbery is categorically overbroad to qualify as a "crime of violence" under § 924(c)(3)(A).

We recently rejected a similar argument in *United States v. Barrett*, 102 F.4th 60 (2d Cir. 2024). There, we reaffirmed our understanding that substantive Hobbs Act robbery is a "crime of violence" for purposes of § 924(c) and rejected an analogous attempt to propound hypothetical Hobbs Act robberies that do not involve the use, attempted use, or threatened use of physical force in order to show the offense is not categorically a crime of violence. *Id.* at 81–83. Consequently, we must reject Rich's argument here. We are bound by rulings of prior panels and may not "disregard precedent that squarely rules on an issue simply because an earlier panel may not have considered additional arguments now proffered by a party." *Id.* at 82.

* * *

We have considered Rich's remaining arguments and conclude that they are without merit. Accordingly, we **AFFIRM** the judgment of the district court and **DISMISS** the government's motion as moot.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court