

24-6913 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

MAR - 3 2025

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IN THE
SUPREME COURT OF THE UNITED STATES

JOHNSON SAINT-LOUIS

— PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHNSON SAINT-LOUIS 74234-509

(Your Name)

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(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

(1) Whether the federal bank robbery statute, 18 USC §2113(a) is indivisible and thus not a qualifying "Crime of violence" under 18 USC §924(c)?

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

TABLE OF AUTHORITIES CITED

CASES

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Loper Bright Enterprises v. Raimondo, 603 US 369, 400 (2024)

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STATUTES AND RULES

18 USCA §924(c)

18 USCA §924(c)(1)(A)(ii)

18 USCA §924(c)(3)(A)

18 USCA §2113(a)

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18 USCA §2113(b)-(c)

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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 ^A_____ 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☒ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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

The United States Court of Appeals for the Eleventh Circuit decided Petitioner's case on December 3, 2024. No petition for rehearing was filed in this case. The jurisdiction of this Court is invoked under 28 USC §1254(I).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. If the least culpable conduct that could sustain a conviction for a given crime does not necessarily require the use or threat of force, that offense is not a crime of violence and the firearm sentencing enhancement cannot apply. 18 U.S.C.A. Section 924(c).
2. Federal bank robbery statute is indivisible as to extortion, for the purpose of determining at sentencing whether it constitutes a crime of violence for purposes of firearm sentencing enhancement; force and violence, intimidation, and extortion are three ways a person might rob a bank, and text and structure of the statute indicate that extortion is a factual means of bank robbery, rather than an element of an entirely separate offense. 18 U.S.C.A. Sections 924(c), 2113(a).
3. "Crime of violence," for purposes of firearm sentencing enhancement, only encompasses offenses that, categorically speaking, involve the use or threatened use of force. 18 U.S.C.A. Section 924(c).
4. 18 U.S.C.A. Section 2113(a) & (d).
5. 18 U.S.C.A. Section 924(c)(1)(A)ii.
6. 18 U.S.C.A. Section 2113(b)-(c).

STATEMENT OF THE CASE

In December 2021, a federal grand jury returned an indictment charging Mr. Saint-Louis with armed bank robbery, see 18 USC §2113(a) & (d), and brandishing a firearm during and in relation to a crime of violence, see 18 USC §924(c)(1)(A)(ii). The indictment also charged money laundering, see 18 USC §1975, but the district court dismissed that count at trial on the government's motion. The charges stemmed from the robbery of a Bank of America ATM in Tallahassee, Florida on September 29, 2021. Mr. Saint-Louis exercised his right to proceed to trial. The trial was held over three days in November, 2022. The jury found Mr. Saint-Louis guilty of armed bank robbery and brandishing a firearm in furtherance of a bank robbery, resulting in a 147 month total sentence. Mr. Saint-Louis filed a timely appeal which was upheld by the Eleventh Circuit. See Case No. 4:21-cr-00063, CN.D.FL) 11th Cir. Appeal No. 23-12379.

STATEMENT OF FACTS

The government's theory of prosecution was that Mr. Saint-Louis, a former ATM technician with Hyosung, devised a scheme for stealing hundreds of thousands of dollars from ATMs. It was believed that he scouted the ATMs that his former employer serviced and conducted one or more transactions at the machine late at night and jammed it. After jamming an ATM, the government's theory was that Mr. Saint-Louis waited for the ATM technician to come to the machine and open its vault. When the vault was open, Mr. Saint-Louis brandished a handgun and took the money. There was no victim testimony, video surveillance, or finger print / DNA evidence presented that identified Mr. Saint-Louis as the perpetrator. The government instead presented circumstantial evidence or other uncharged ATM robberies to establish its case.

At bar here, there is an issue splitting the circuits. Mr. Saint-Louis argues that 18 USC §2113(a) federal bank robbery - is an individualized statute that can be committed without the use, attempted use, or threatened use of physical force against the person or property of another and therefore, Mr. Saint-Louis's conviction under §2113(a) is thus not a "Crime of violence" for purposes of 18 USC §924. See *United States v. Burwell*, 122 F.4th 984 (D.C. Cir. 2024); *United States v. Armstrong*, 122 F.4th 1278 (11th Cir 2024)(both these cases cause a circuit split.)

REASONS FOR GRANTING THE PETITION

A. The federal bank robbery statute 18 USC §2113(a) is indivisible and thus not a qualifying "Crime of violence" under 18 USC §924(c).

For a defendant to be convicted under 18 USC §924(c) as Mr. Saint-Louis was here, the firearm had to be used or carried during and in relation to a "Crime of violence". 18 USC §924(c)(1)(A). A crime of violence is an offense that "has an element the use, attempted use, or threatened use of physical force against the person or property of another." 18 USC §924(c)(3)(A). Section 2113 (a) includes both violent acts of bank robbery and nonviolent acts of bank extortion. 18 USC §2113(a). Mr. Saint-Louis argues here that §2113(a) is an indivisible statute, which means it can be committed without the use, attempted use, or threatened use of physical force against the person or property of another.

The circuits are currently split on this question. In *United States v. Burnwell*, the D.C. Circuit has held that 18 USC §2113(a) is indivisible as to extortion and therefore does not qualify as a "Crime of violence" under 18 USC §924(c). See 122 F.4th 984, 997 (D.C. Cir. 2024). Days after the ruling in *Burnwell*, the Eleventh Circuit held in *United States v. Armstrong* that 18 USC §2113(a) is divisible between robbery and extortion and thus bank robbery is a qualifying predicate under §924(c). 122 F.4th 1278, 1287 (11th Cir. 2024). Mr. Armstrong has filed a petition for a re-hearing. See 11th Cir. Appeal No 21-11252 at Doc 75. Therefore, Mr. Saint-Louis puts forth that his conviction under 18 USC §2113(a) is not a "Crime of violence" for purposes of §924(c), rendering his conviction unlawful.

B. 18 USC §2113(a) is indivisible as to extortion and therefore does not qualify as a "Crime of violence" under §924(c).

In *Burnwell*, F22 F.4th at 989-67 the D.C. Circuit adhered to the Supreme Court's instructions to courts in conducting a divisibility analysis. See *Mathis v. United States*, 579 US 500, 504-19 (2016). In the D.C. Circuit analysis it started by examining the plain text and observed that §2113(a) provides a single penalty regardless of whether it was committed by robbery or extortion in a single paragraph, which Congress separated from bank larceny and receipt of stolen bank property under §2113(b)-(c). ID. at 990-91. The D.C. Circuit read §2113 to explain alternative means or "how someone unlawfully comes into possession of bank property - either by taking or attempting to take by force, violence, or intimidation; or by obtaining, or attempting obtain bank property by extortion." ID at 991. Even further, *Burnwell* noted that its reading aligns with Congress adding extortion to the already existing bank robbery statute in 1986, rather than creating a new offense.

REASONS FOR GRANTING THE PETITION

(cont'd from pg 5)

ID. The D.C. Circuit held that "[t]he text, structures, and statutory history make clear that §2113(a) is indivisible " and "that clarity resolves" the issue. ID. at 991-92 (citing additional support from the 1986 amendment's legislative history "show[ing] that Congress reviewed the bank robberies affected by extortion as equivalent to bank robberies affected by force and violence or by intimidation. All are unlawfully coercive means to obtain [...]...bank monies").

The Burwell ruling applied Mathis to "determin[e] §2113(a)'s "single best meaning" "2113(a) is indivisible." Id. at 996 (citing Loper Bright Enters v. Kaimondo, 603 US 369, 400 (2024)). Mr. Saint-Louis avers that Burwell got it right; §2113(a) lists alternative means of committing the single offense of bank robbery. And because extortion can be committed without the use, attempted use, or threatened use of physical force against the person or property of another, the federal bank robbery statute is not a qualifying "Crime of violence" under §924(c).

The Supreme Court must now take up the issues afore put forth herein. Mr. Saint-Louis's substantial rights will have been impacted which seriously affects the fairness, integrity or public reputation of the judicial proceedings in this case. See United States v. Jones, 743 F.3d 826, 830 (11th Cir 2024).

CONCLUSION

For the foregoing reasons, Mr. Saint-Louis asks that this Honorable Court grant him a Writ of Certiorari in the interest of justice.

Respectfully Submitted,

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Dated: March 3, 2025