No._____

IN THE SUPREME COURT OF THE UNITED STATES

JOHN ARMSTRONG, JR.,
Petitioner / Appellant,

v.

UNITED STATES OF AMERICA,
Respondent / Appellee.

On Petition for a Writ of Certiorari to the
Eleventh Circuit Court of Appeals
21-11252
(D.C. 6:19-cr-224-WWB-EJK-1)
SCOTUS prior case number 21-7933

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022), is a conviction for federal bank robbery under Section 2113(a) categorically a crime of violence when bank robbery can be committed by "intimidation" and/or "extortion"?

II. Under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022), is aiding and abetting attempted bank robbery under Section 2113(a) categorically a crime of violence?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings in the Eleventh Circuit Court of Appeals include the United States of America and Petitioner John Armstrong, Jr. There are no parties to the proceedings other than those named in the petition.

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INTRODUCTION

This case presents two important and recurring questions, which are also presented in Marcus Henderson v. United States, No. 25-__ (petition filed July 1, 2025), about how to interpret the federal bank robbery statute, 18 U.S.C. § 2113(a). Both questions are the subject of well-developed and recognized circuit splits. And in both instances, the Eleventh Circuit arrived at a mistaken conclusion that contravenes the statutory text and this Court's precedents.

The first question asks if a conviction for federal bank robbery is categorically a crime of violence under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022), when bank robbery can be committed by "intimidation" and/or "extortion". When tasked with whether to apply the enhanced sentencing penalties for using or carrying a firearm in relation to a crime, the D.C. Circuit has interpreted the statutory text as written to find the statute indivisible. But other courts – including the Eleventh Circuit in the *Remand Opinion* below – have found the statute divisible, making federal bank robbery convictions under Section 2113(a) subject to enhanced penalties as "crimes of violence" under 18 U.S.C. § 924(c). That conclusion is irreconcilable with the statutory text, which repeats the same syntax to list three alternative ways to rob a bank—by force and violence, by intimidation, or by extortion. As the D.C. Circuit properly concluded, the statute does not set forth two separate crimes and thus is indivisible.

The second question asks whether aiding and abetting attempted bank robbery is categorically a crime of violence under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022). In a fractured 2-1 *Remand Opinion* below, Judge Jordan

applied this Court's traditional approach to attempt from Taylor – intent + substantial step – and demonstrated in his dissenting opinion that, in this and every other attempted federal bank robbery case, the government is required to prove beyond a reasonable doubt nothing more than mere intent to commit the robbery and a substantial step towards that goal. Nonetheless, the majority failed to follow this Court's directive to consider Mr. Armstrong's case "in light of United States v. Taylor, 596 U.S. ___." See John Armstrong, Jr. v. United States, 21-7933 (October 3, 2022). On this question too, the Eleventh Circuit and other courts on that side of the circuit split have adopted an interpretation that is contrary to the statutory text and this Court's precedent in Taylor.

Neither of these questions will resolve itself absent this Court's intervention. The proper interpretation of Section 2113(a) is fundamental to scores of defendants subjected to enhanced penalties under Section 924(c).

At this point, there is no benefit to further percolation in the lower courts. The circuits have established their position on both issues, and there is no reason to expect them to reconsider their positions on this now well-established circuit split. Mr. Armstrong's case is the prime vehicle to decide both questions, as the issues were both directly addressed by the Eleventh Circuit and in both instances were outcome-determinative.

The petition should be granted.

OPINIONS BELOW

The *Remand Opinion* rendered by the Eleventh Circuit Court of Appeals is attached as Appendix A. The *Order* denying rehearing en banc is attached as Appendix C.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 924(c) defines a "crime of violence" as 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.

18 U.S.C. § 924(c)(3).

Federal bank robbery is defined as:

> **(a)** Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association; or
>
> …
>
> Shall be fined under this title or imprisoned not more than twenty years, or both.

18 U.S.C. § 2113(a) (2019).

JURISDICTION

The *Remand Opinion* of the Eleventh Circuit Court of Appeal was rendered on December 11, 2024. (App.A) Petitioner timely moved for rehearing en banc on December 18, 2024. (App.B) The Eleventh Circuit denied the rehearing on March 3, 2025. (App.C) Justice Thomas granted a 30-day extension of time to file this petition, extending the time to file this petition up to and including July 1, 2025. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1254(1) (2025).

STATEMENT OF THE CASE

In the *Remand Opinion*, a panel of the Eleventh Circuit Court of Appeals held that the federal bank robbery statute, 18 U.S.C. § 2113(a), is a divisible statute and that Petitioner committed bank robbery by "intimidation," which is a crime of violence under the modified categorical approach to 18 U.S.C. § 924(c)(1)(A)(ii). App.A p.2, 16. As to Count 10 (Mr. Armstrong's conviction for aiding and abetting attempted bank robbery), two panel members held that this conviction is categorically a crime of violence Section 924(c) despite this Court's decision in United States v. Taylor, 596 U.S. 845, 852 (2022), which held that attempted bank robbery is *not* a crime of violence under the elements clause. See App.A p.24-34 (Jordan, J., dissenting).

Conviction

After a series of convenience store and bank robberies in 2019, a grand jury indicted Mr. Armstrong on one count of Hobbs Act Robbery (Count One), two counts of bank robbery under 18 U.S.C. § 2113(a) (Counts Three and Eleven), and one count of Attempted Bank Robbery under 18 U.S.C. 2113(a) (Count Nine). The indictment also charged him with three counts of using a firearm in connection with a crime of violence under Section 924(c) in relation to the Bank Robbery counts pursuant to Section 2113(a).[1]

Mr. Armstrong pled guilty via a written plea agreement. (Dkt.133) However, he argued at sentencing that the three convictions under Section 924(c) were not subject to the mandatory consecutive 7-year sentence for each count. Mr. Armstrong

[1] The Hobbs Act Robbery conviction as to Count One is not at issue in this petition.

pointed out that robbery under Section 2113(a) can be committed by "extortion" or "intimidation" which do not require the use of force. Thus, he argued that the consecutive 7-year sentences under Section 924(c) do not apply to his convictions. (Dkt.210 p.5; Dkt.243 p.35)

The district court rejected this argument and sentenced Mr. Armstrong to 168-months for Counts One, Three, Nine, and Eleven. The court then sentenced him to an additional 84-months imprisonment for Counts Four, Ten, and Twelve to run consecutive to the 168-month sentence: 168 + 84 + 84 + 84 = 420-months total imprisonment. (Dkt.243 p.30-31). Rather than being subjected to 14-years imprisonment, Mr. Armstrong is now serving a staggering 35 years in federal prison.

Direct Appeal

In the direct appeal, Mr. Armstrong again argued that he could not be subjected to the mandatory consecutive 7-year sentences for each count under Section 924(c) because Section 2113(a) can be committed without violence. As at sentencing, he argued that Section 2113 can be violated by "extortion" or "intimidation". Because the statute can be violated without resort to violence, it categorically did not qualify as a crime of violence under Section 924(c)(1)(A)(ii). (Appellant's Brief p.11-19).

Although the Eleventh Circuit affirmed the conviction and sentences under those counts, this Court granted a writ of certiorari, vacated the judgment, and remanded the case for consideration in light of United States v. Taylor, 596 U.S. 845, 852 (2022).

Remand Opinion

On remand, a panel of the Eleventh Circuit held that the federal bank robbery statute, 18 U.S.C. § 2113(a), is a divisible statute and that Mr. Armstrong committed bank robbery by "intimidation," which is a crime of violence under the modified categorical approach to 18 U.S.C. § 924(c)(1)(A)(ii). App.A p.2, 16. As to Count 10 (Mr. Armstrong's conviction for aiding and abetting attempted bank robbery), two panel members held that this conviction is categorically a crime of violence Section 924(c) despite this Court's decision in United States v. Taylor, 596 U.S. 845, 852 (2022), that attempted bank robbery is *not* a crime of violence under the elements clause. See *Remand Opinion* p.24-34, (Jordan, J., dissenting).

Mr. Armstrong moved for rehearing. Two days prior to the Eleventh Circuit's decision in this case, the D.C. Circuit reached the opposite conclusion in United States v. Burwell, 122 F.4th 984 (D.C. Cir. Dec. 9, 2024). Mr. Armstrong pointed out that the Eleventh Circuit did not have the benefit of the D.C. Circuit's rationale in Burwell, which held that the text, structure, and statutory history of Section 2113(a) indicate that extortion is a factual means of bank robbery, not an element of a separate offense. App.B. The Eleventh Circuit denied the petition for rehearing. App.C.

REASONS FOR GRANTING THE WRIT

I. Under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022), is a conviction for federal bank robbery categorically a crime of violence when bank robbery can be committed by "intimidation" and/or "extortion"?

In short, this issue represents a well-developed circuit split where at least six circuit courts of appeal have reached opposite holdings on an important issue of federal law. Most notably:

- **D.C. Circuit:** In United States v. Burwell, 122 F.4th 984 (D.C. Cir. 2024), the D.C. Circuit held that the federal bank robbery statute, 18 U.S.C. § 2113(a), is indivisible as to extortion, meaning bank robbery does not qualify as a crime of violence under 18 U.S.C. § 924(c).
- **Eleventh Circuit:** In this case, the Eleventh Circuit reached the opposite conclusion, holding that Section 2113(a), is a divisible statute and that Mr. Armstrong committed bank robbery by "intimidation", which is a crime of violence under the modified categorical approach to 18 U.S.C. § 924(c)(1)(A)(ii). App.A. The Eleventh Circuit is joined by the First, Second, Third, and Ninth Circuits in holding that the statute is divisible. See King v. United States, 965 F.3d 60 (1st Cir. 2020); Evans v. United States, 924 F.3d 21, 28 (2d Cir. 2019); United States v. Vines, 134 F.4th 730 (3d Cir. 2025); United States v. Watson, 881 F.3d 782 (9th Cir. 2018).

Only this Court can resolve the clear division amongst the circuit courts of appeal.

A. This Court's Precedent in United States v. Taylor, 596 U.S. 845 (2022).

For the purposes of Section 924(c), "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.

18 U.S.C. § 924(c)(3). Subsection (A) is known as the "use-of-force" or "elements" clause.

Considering the elements clause, this Court held that attempted Hobbs Act robbery does not categorically qualify as a crime of violence under Section 924(c). United States v. Taylor, 596 U.S. 845, 852 (2022). Using the "categorical approach", this Court reiterated that a federal felony is only a crime of violence if it "has *as an element* the use, attempted use, or threatened use of physical force." Id. at 846, citing § 924(c)(3)(A) (emphasis added). Again, this Court reminded that the inquiry precludes looking to how the defendant in the instant case committed the offense but rather examining "whether the federal felony at issue ***always requires*** the government to prove – beyond a reasonable doubt, as an element of its case – the use, attempted use, or threatened use of force." Id. (Emphasis added.)

Turning to the offense at issue in Taylor, this Court held that attempted Hobbs Act robbery did not categorically qualify as a crime of violence because the substantial step requirement for attempt required the government to prove nothing more than mere intent to commit the robbery: "But an intention is just that, nothing more." Id.

Because mere intention does not require the government to prove – as an element of the offense beyond a reasonable doubt – that the defendant used, attempted to use, or threatened force against another person or his property, attempted Hobbs Act robbery does not qualify as a "crime of violence" under Section 924(c). Id.

B. The Circuits Disagree on Key Elements that Determine Whether Section 2113(a) is Divisible or Indivisible.

When determining whether bank robbery under Section 2113(a) constitutes a crime of violence under the elements clause of Section 924(c), the circuit courts of appeal have all analyzed the statute's essential elements. Despite this shared approach, the circuits remain deeply divided and have yet to reach a consensus on the issue:

1. Single Maximum Penalty

For starters, the D.C. Circuit in Burwell held that the plain text of Section 2113(a) provides a single maximum penalty regardless of how a bank robbery is completed: "[w]hether one is convicted for robbing a bank by force and violence, intimidation, or extortion, their maximum penalty may not exceed twenty years in prison." Id. at 990. As this Court held that divisible statutes carry different punishments, the D.C. Circuit pointed out that the inverse must also be true: **indivisible statutes carry the same punishment.** Id. (citing Mathis v. United States, 579 U.S 500, 518 (2016)).

Neither the Eleventh Circuit's *Remand Opinion* nor the pre-Taylor opinions from the Ninth, Second, and First Circuits addressed the fact that **robbery by force, violence, intimidation, or extortion all carry the same maximum penalty.** See

App.A.; Watson, 881 F.3d at 786; Evans, 924 F.3d at 28; King, 965 F.3d at 70-71. Although it had the benefit of the Burwell opinion, the Third Circuit still did not address that robbery by force, violence, intimidation, or extortion all carry the same maximum penalty. See Vines, 134 F.4th 730.

2. Statutory Construction

The D.C. Circuit went a step further, pointing out that Congress chose to include the language "obtains or attempts to obtain by extortion" in the same paragraph as "by force and violence, or by intimidation" rather than putting the extortion requirement in a separate paragraph or separate subsection as it did for bank burglary in Section 2113(b) and receipt of stolen bank property in Section 2113(c). See Burwell, 122 F.4th at 990.

The D.C. Circuit also noted that Congress chose to "place a comma before extortion, as it does between force and violence and intimidation, rather than use more disjunctive punctuation like a semicolon. Id.

Meanwhile, the Third Circuit interpreted the comma separating extortion from "by force and violence" as creating two separate divisible crimes: "bank robbery and bank extortion." See Vines, 134 F.4th at 734.

Neither the Eleventh Circuit's *Remand Opinion* nor the pre-Taylor opinions from the Ninth and Second Circuits examined the statutory construction. Those cases also did not consider Congress's use of punctuation in constructing the statute. See App.A.; Watson, 881 F.3d at 786; Evans, 924 F.3d at 28.

3. Mens Rea

The Burwell court also noted that Congress did not set out a separate mens rea requirement for extortion, which would suggest divisibility. See Burwell, 122 F.4th at 991. Neither the Eleventh Circuit's *Remand Opinion* nor the pre-Taylor opinions from the Ninth, Second, and First Circuits considered that Congress did not include a separate mens rea requirement for extortion or intimidation. See App.A; Watson, 881 F.3d at 786; Evans, 924 F.3d at 28; King, 965 F.3d at 70-71. Although having the benefit of the Burwell opinion, the recent Third Circuit did not address the fact that Congress did not include a separate mens rea requirement for extortion or intimidation. See Vines, 134 F.4th 730.

4. Alternate Means

Further, the D.C. Circuit pointed out that "extortion" and "intimidation" are synonyms, which is "strong evidence that Congress viewed extortion and intimidation as alternative means to commit bank robbery." See Burwell, 122 F.4th at 991.

Burwell inquired even further, citing the statutory history, including the 1986 amendment adding extortion language, which suggests Congress intended to add extortion as another means of committing bank robbery, not create a new offense. See Burwell, 122 F.4th at 991.

Neither the Eleventh Circuit's *Remand Opinion* nor the pre-Taylor opinions from the Ninth, Second, and First Circuits considered that "extortion" and "intimidation" are synonyms, which suggests that Congress viewed them as alternative means of committing bank robbery. See App.A; Watson, 881 F.3d at 786;

Evans, 924 F.3d at 28; King, 965 F.3d at 70-71.

5. Statutory History and Comparison

Like the Eleventh Circuit and the Third Circuit, the D.C. Circuit looked to the statutory history and common law roots of robbery and extortion but found that neither supports treating them as separate offenses in Section 2113(a). See Burwell, 122 F.4th at 992-994.

None of the pre-Taylor opinions from the Ninth, Second, or First Circuits examined the common law roots of robbery and extortion. See Watson, 881 F.3d at 786; Evans, 924 F.3d at 28; King, 965 F.3d at 70-71.

The Eleventh Circuit's *Remand Opinion* and Burwell also differ over the interpretation of this Court's decision in Ocasio v. United States, 578 U.S. 282, 297 (2016). See App.A p.12; See Burwell, 122 F.4th at 994. In Ocasio, this Court held that a conspirator need not agree to commit the substantive offense (Hobbs Act extortion) in order to be convicted under the federal conspiracy statute but rather need only agree that the underlying crime be committed by some member of the conspiracy capable of committing it. Id.

The Eleventh Circuit interpreted Ocasio as holding that Hobbs Act Robbery is a separate and distinct crime from Hobbs Act Extortion. See App.A p.12.

Meanwhile, the D.C. Circuit used Ocasio to point out that, while Congress defined extortion in the Hobbs Act statute, Congress declined to include a similar definition in the federal bank robbery statute. See Burwell, 122 F.4th at 994. The D.C. Circuit also pointed to a similar case where Congress declined to include a

definition of "extortion" within the statute and this Court refused to impute the common law definition. See id. (citing United States v. Nardello, 393 U.S. 286, 292-96 (1969)).

And to the extent that the Eleventh Circuit cited Wayne R. LaFave's *Criminal Law* treatise to support its position, see App.A p.12, the Eleventh Circuit took the quote out of context as it actually states the opposite of what the Court cites it for:

> …in spite of the different expressions, **there is no difference here, for both [extortion and robbery] equally require that the defendant's threats induce the victim to give up his property,** something which he would not otherwise have done.

Wayne R. LaFave, *Criminal Law*, § 20.4(b) (6th ed. 2017) (emphasis added). The D.C. Circuit cites LaFave's passage to support the opposite position as the Eleventh Circuit. See Burwell, 122 F.4th at 995. Professor LaFave states that extortion and robbery are simply **alternate means** of committing the same offense, not elements: "The elements of force and fear – of violence or intimidation – are **alternatives**: if there is force, there need be no fear, and *vice versa*." Id. at § 20.3(a)(2). (Emphasis added.)

Only this Court can resolve these critical questions of federal law, ensure uniform application of criminal statutes nationwide, and provide much-needed clarity on the scope of Section 2113(a) and its interaction with Section 924(c). Accordingly, certiorari is warranted to address these important and recurring issues. The petition should be granted.

II. Under 18 U.S.C. § 924(c) and United States v. Taylor, 596 U.S. 845 (2022), is aiding and abetting attempted bank robbery categorically a crime of violence?

The Eleventh Circuit's decision below further entrenches a 5-3 circuit split regarding whether **attempted** bank robbery under 18 U.S.C. § 2113(a) qualifies as a "crime of violence" under Section 924(c)'s elements clause. The core dispute centers on whether attempted robbery — unlike completed robbery — requires proof of *actual or threatened physical force*. If it does not, it cannot satisfy Section 924(c)'s force requirement.

A. The Circuits are Split 5-3 Over Whether Attempted Bank Robbery is a Crime of Violence.

To be clear, the circuit courts of appeal are split 5-3 over whether ***attempted bank robbery*** is a crime of violence:

- The Fourth, Sixth, and Ninth Circuits have each held that attempted bank robbery under Section 2113(a) does not require the government to prove the use, attempted use, or threatened use of force, even if the completed version of the offense does.[3]
- The Second, Third, Fifth, Seventh, and Eleventh Circuits have reached the opposite conclusion. These courts reason that attempted bank robbery under Section 2113(a) always requires the government to prove that the defendant acted "by force and violence, or by intimidation" in

[3] United States v. McFadden, 739 F.2d 149 (4th Cir. 1984); United States v. Wesley, 417 F.3d 612, 617-18 (6th Cir. 2005); United States v. Moore, 921 F.2d 207, 209 (9th Cir. 1990).

committing the crime.[4]

B. This Court's Precedent Holds Attempted Hobbs Act Robbery is *Not* Categorically a Crime of Violence.

This Court has already held that attempted Hobbs Act robbery is *not* categorically a crime of violence under ACCA's elements clause. See United States v. Taylor, 596 U.S. 845, 852 (2022).

Consistent with this Court's controlling precedent in Taylor, Judge Jordan wrote in the dissenting opinion below that the government is required to prove in every case beyond a reasonable doubt no more than mere intent to commit the attempted robbery and a substantial step towards that goal. See Taylor, 596 U.S. at 852; see App.A p.24-34 (Jordan, J., dissenting in part and concurring in part).

And as Judge Jordan points out, the Eleventh Circuit and many others have repeatedly held that the attempted bank robbery can be committed without any act of violence. See United States v. Barriera-Vera, 303 F. App'x 687, 695 (11th Cir. 2008) (overturning district court's judgment of acquittal on attempted bank robbery charge where the defendant cased the credit union, had a loaded gun and a mask in his car, and drove near the credit union, but was thwarted by police and arrested in a different location); see also United States v. Chapdelaine, 989 F.2d 28, 32–33 (1st Cir. 1993) (upholding conviction where the defendants cased the bank, positioned getaway vehicles for escape, and acquired weapons, but never entered the bank);

[4] App.A - United States v. Armstrong, 122 F.4th 1278, 1288-91 (11th Cir. 2024); Vines, 134 F.4th at 738-39; United States v. Blake Taylor, No. 19-10261, 2023 WL 4118572 (5th Cir. June 22, 2023) (unpublished); United States v. Thornton, 539 F.3d 741, 747 (7th Cir. 2008).

United States v. Garner, 915 F.3d 167, 169–71 (3d Cir. 2019) (substantial step consisted of surveilling bank and gathering tools); United States v. Johnson, 962 F.2d 1308, 1312 (8th Cir. 1992) (substantial step consisted of driving slowly around the bank three times wearing disguises and stopping once with the van door open); United States v. Carlisle, 118 F.3d 1271, 1273–74 (8th Cir. 1997) (substantial step consisted of a knapsack in the trunk containing a hunting knife, a dark blue ski mask, sunglasses, several bank deposit envelopes, a fake bomb, a remote control device, and the demand note in the defendant's trunk parked outside a café…not the bank); United States v. Crawford, 837 F.2d 339, 340 (8th Cir. 1988) (substantial step consisted of the defendant started a getaway car parked in a church parking lot left by a co-conspirator-turned-informant filled with coveralls, ski masks, gloves, and a weapon after the defendant and informant cased a bank together); United States v. Prichard, 781 F.2d 179, 182 (10th Cir. 1986) (substantial step consisted of casing the bank to learn the manager's system for opening the bank, acquiring the bank manager's home address, and approaching the bank manager's home). None of the substantial steps for attempted bank robbery in these cases involved the use, attempted use, or threatened use of force.

C. The Circuits are Split on How to Define Attempt

To make matters more confusing, there is no federal statute defining attempt. The Fourth, Sixth, and Ninth Circuits all followed the traditional approach that this Court followed in Taylor: intent + substantial step. Indeed, the Eleventh Circuit's own Criminal Pattern Jury Instructions also define attempt in the traditional sense

of intent to commit the offense plus a substantial step towards committing the crime. See Eleventh Cir. Pattern Jury Instr. (Criminal) S11 (2025).

Together with the Second, Third, Fifth, and Seventh Circuits, the Eleventh Circuit rewrote a new definition for attempt just for the Section 2113(a) bank robbery statute. These circuits hold that the "by force or violence, or intimidation" clause is somehow "baked into the offense of attempted bank robbery." See App.A, p.25 (Jordan, J., concurring in part and dissenting in part). Given these conflicting interpretations, clarification from this Court is necessary to resolve the ongoing confusion surrounding how to define attempt in terms of Section 2113(a) bank robbery.

Only this Court can resolve this critical question of federal law, ensure uniform application of attempted bank robbery nationwide, and provide much-needed clarity on the scope of Section 2113(a) and its interaction with Section 924(c). Accordingly, certiorari is warranted to address these important and recurring issues. The petition should be granted.

III. The Petition Should Be Granted to Resolve the Circuit Conflict.

In light of the persistent and deeply entrenched circuit split over whether bank robbery and attempted bank robbery under Section 2113(a) constitute crimes of violence under the elements clause of Section 924(c), the writ of certiorari should be granted. Although every circuit has analyzed the essential elements of the statute, their divergent conclusions reveal a fundamental lack of consensus on critical issues, including the statute's indivisibility, the significance of a single maximum penalty, statutory construction and punctuation, the absence of separate mens rea requirements, and the interpretation of "extortion" and "intimidation" as alternative means rather than separate elements. The D.C. Circuit's thorough analysis in Burwell — contrasting sharply with the approaches of the First, Second, Third, Ninth, and Eleventh Circuits — demonstrates that key aspects of statutory text, history, and structure remain unaddressed or misunderstood in other circuits. Moreover, the conflicting interpretations of Taylor underscore the confusion and inconsistency in the lower courts.

In terms of attempt, the Eleventh Circuit's decision deepens a well-established and consequential 5-3 circuit split over whether attempted bank robbery under Section 2113(a) constitutes a "crime of violence" under Section 924(c)'s elements clause. The approach of the majority circuits is in direct tension with this Court's controlling precedent in Taylor (the traditional interpretation of attempt), as well as with the practical realities reflected in numerous cases where convictions for attempted bank robbery rested on conduct that did not involve the use, attempted

use, or threatened use of force. Given that the government need only prove intent and a substantial step toward committing the crime — neither of which necessarily entails violence — continued misapplication of the law threatens to improperly expand the reach of Section 924(c).

A. **The Stakes are High for Defendants Facing Section 924(c) Sentences**

Mr. Armstrong's case starkly illustrates the extraordinary stakes faced by criminal defendants charged under Section 924(c). Owing to the mandatory enhancements imposed by this statute, the district court sentenced Mr. Armstrong to an additional 84 months of imprisonment **for each qualifying count** — each term to run consecutively to his 168-month base sentence. The result is staggering: instead of serving a 14-year sentence, Mr. Armstrong is now condemned to 35 years in federal prison (168 + 84 + 84 + 84 = 420 months).

Mr. Armstrong's predicament is far from unique. Section 924(c) mandates that sentences for its violations run consecutively — not concurrently — with any underlying offenses, dramatically increasing the total time defendants spend behind bars. These harsh outcomes should not depend on the happenstance of geography or prosecutorial discretion, yet they do, leading to unjust sentencing disparities across federal jurisdictions. Nowhere is this inequity more pronounced than in the Eleventh Circuit, where Mr. Armstrong was prosecuted. This circuit is notorious for imposing more Section 924(c) sentences than any other in the nation. As the Eleventh Circuit itself has acknowledged, it "lead[s] the pack in imposing sentences under [Section 924(c)]." United States v. St. Hubert, 918 F.3d 1174, 1212 (11th Cir. 2019) (en banc)

(Pryor, J., dissenting). The Eleventh Circuit's approach thus exemplifies the troubling consequences of the current statutory scheme.

Only this Court can resolve these critical questions of federal law, ensure uniform application of criminal statutes nationwide, and provide much-needed clarity on the scope of Section 2113(a) and its interaction with Section 924(c). Accordingly, certiorari is warranted to address these important and recurring issues. The petition should be granted.

CONCLUSION

Mr. Armstrong requests that this Court grant a writ of certiorari to decide this issue of exceptional importance as it conflicts with an authoritative decision of another Court of Appeals while also conflicting with this Court's decision in United States v. Taylor, 596 U.S. 845 (2022). See Supreme Court Rule 10(a) (2025). Mr. Armstrong asks this Court to award him any and all further relief to which he is entitled.

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