

No. 17-7667

IN THE
Supreme Court of the United States

ALEXANDER JOSE JONES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit**

REPLY TO THE UNITED STATES' BRIEF IN OPPOSITION

Donna Lee Elm
Federal Defender

Conrad Benjamin Kahn, Counsel of Record
Research and Writing Attorney
Federal Defender's Office
201 South Orange Avenue, Suite 300
Orlando, Florida 32801
Telephone: (407) 648-6338
Facsimile: (407) 648-6765
E-mail: Conrad_Kahn@fd.org

QUESTION PRESENTED

Whether the Eleventh Circuit erred in denying Mr. Jones a certificate of appealability (COA) on whether he lacked a third predicate conviction under the Armed Career Criminal Act (ACCA) where none of the following Florida convictions qualify as “violent felon[ies]” under the ACCA’s elements clause: (1) aggravated assault; (2) resisting with violence; and (3) robbery.

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REPLY ARGUMENTS

The Court should hold this petition pending the resolution of *Stokeling v. United States*, cert. granted No. 17-5554 (Apr. 2, 2018).

* * *

In *Stokeling*, the Court will decide whether Florida robbery is a “violent felony” under the ACCA’s elements clause—i.e., whether it has as an element the use, attempted use, or threatened use of “physical force.” 18 U.S.C. § 924(e)(2)(B)(i). Central to that question is the meaning of “physical force” as defined in *Curtis Johnson v. United States*, 559 U.S. 133 (2010). At the petition-stage, the petitioner in *Stokeling* argued the degree of force necessary to commit Florida robbery could be minimal, and that degree of force does not satisfy *Curtis Johnson*’s definition. In opposition, the government argued the force involved was “capable” of causing pain or injury, and for that reason it satisfied *Curtis Johnson*’s definition. Thus, the dispute over that definition is at the forefront of *Stokeling*.

Because *Stokeling* will clarify *Curtis Johnson*’s “physical force” definition, and the dispute over that definition lies at the heart of this case, the proper resolution is to hold this petition pending *Stokeling*. Resisting that common-sense approach, the government argues *Stokeling* will not affect this case because Mr. Jones will still have three qualifying convictions even if Florida robbery qualifies as a “violent felony.” BIO at 7–8, 19–20. But that argument prematurely assumes that *Stokeling* will accept the government’s preferred “capability” understanding of *Curtis Johnson*. If *Stokeling* does not adopt that understanding, and instead adopts the degree-of-force understanding advocated by the petitioner there, then that would also affect whether Mr. Jones’ convictions for aggravated assault and resisting with violence qualify as “violent felon[ies].”

CONCLUSION

For the above reasons, Mr. Jones' petition should be held pending the resolution of *Stokeling*.

Respectfully submitted,

Donna Lee Elm
Federal Defender



Conrad Benjamin Kahn
Research and Writing Attorney
Federal Defender's Office
201 S. Orange Avenue, Suite 300
Orlando, FL 32801
Telephone 407-648-6338
Facsimile 407-648-6095
E-mail: Conrad_Kahn@fd.org
Counsel of Record for Mr. Jones