

No. _____

IN THE
Supreme Court of the United States

JUSTIN CURTIS WERLE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari
to the Ninth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does a threat to kill, potentially via indirect, non-violent harm, constitute the threatened use of violent physical force, as required by *Johnson v. United States*, 559 U.S. 133 (2010)?
2. Does a statute proscribing threats to kill, but which lacks any immediacy requirement and contemplates threats issued at great distance, satisfy the generic federal definition under the 'force clause' that requires the use of violent physical force under *Johnson v. United States*, 559 U.S. 133 (2010)?

**PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT**

Petitioner, Justin Curtis Werle, respectfully prays that a writ of certiorari issue to review the published *per curiam* decision of the United States Court of Appeals for the Ninth Circuit, entered on December 13, 2017. (App. 1-11).

OPINIONS AND ORDERS BELOW

Justin Werle was indicted in March, 2014, for felon in possession of a firearm (Count I) and possession of an unregistered firearm (Count II). Justin Werle pled guilty to both counts pursuant to a conditional plea agreement.

After a reversal and remand for resentencing from the United States Court of Appeals for the Ninth Circuit, the District Court found that Mr. Werle's prior convictions for felony harassment under Washington state law constituted crimes of violence.

Mr. Werle filed a timely appeal. On December 13, 2017, the United States Court of Appeals for the Ninth Circuit affirmed the District Court's judgment and sentence. (App 1-11).

STATEMENT OF JURISDICTION

The Court of Appeals affirmed the District Court's sentence in this matter. The Court of Appeals had jurisdiction pursuant to 28 U.S.C. § 1291. The jurisdiction of this Court is invoked pursuant 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

§2K2.1. Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition

(a) Base Offense Level (Apply the Greatest):

(2) 24, if the defendant committed any part of the instant offense subsequent to sustaining at least two felony convictions of either a crime of violence or a controlled substance offense;

§4B1.2. Definitions of Terms Used in Section 4B1.1

- (a) The term "crime of violence" means any offense under federal or state law, punishable by imprisonment for a term exceeding one year, that—
- (1) has as an element the use, attempted use, or threatened use of physical force against the person of another, or
 - (2) is murder, voluntary manslaughter, kidnapping, aggravated assault, a forcible sex offense, robbery, arson, extortion, or the use or unlawful possession of a firearm described in 26 U.S.C. § 5845(a) or explosive material as defined in 18 U.S.C. § 841(c).

Revised Code of Washington 9a.46.020

Definition—Penalties.

- (1) A person is guilty of harassment if:
- (a) Without lawful authority, the person knowingly threatens:
 - (i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or
 - (ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2) (a) Except as provided in (b) of this subsection, a person who harasses another is guilty of a gross misdemeanor.

(b) A person who harasses another is guilty of a class C felony if any of the following apply: (i) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; (ii) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person; (iii) the person harasses a criminal justice participant who is performing his or her official duties at the time the threat is made; or (iv) the person harasses a criminal justice participant because of an action taken or decision made by the criminal justice participant during the performance of his or her official duties. For the purposes of (b)(iii) and (iv) of this subsection, the fear from the threat must be a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the criminal justice participant that the person does not have the present and future ability to carry out the threat.

(3) Any criminal justice participant who is a target for threats or harassment prohibited under subsection (2)(b)(iii) or (iv) of this section, and any family members residing with him or her, shall be eligible for the address confidentiality program created under RCW 40.24.030.

(4) For purposes of this section, a criminal justice participant includes any (a) federal, state, or local law enforcement agency employee; (b) federal, state, or local prosecuting attorney or deputy prosecuting attorney; (c) staff member of any adult corrections institution or local adult detention facility; (d) staff member of any juvenile corrections institution or local juvenile detention facility; (e) community corrections officer, probation, or parole officer; (f) member of the indeterminate

sentence review board; (g) advocate from a crime victim/witness program; or (h) defense attorney.

(5) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

STATEMENT OF THE CASE

In March of 2014, Justin Curtis Werle was indicted in the Eastern District of Washington for the unlawful possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1), and possession of an unregistered firearm, in violation of 26 U.S.C. § 5861(d). Mr. Werle pled guilty to both counts against him, and a sentencing hearing was held later that year. The district court found that Mr. Werle had seven prior qualifying convictions under the Armed Career Criminal Act, 18 U.S.C. § 924(e) (ACCA), and was therefore subject to a fifteen-year mandatory minimum sentence. This finding was based in part on the district court's determination that the Washington riot statute was categorically a violent felony for the purposes of the ACCA.

The United States Court of Appeals held that the Washington riot statute is not categorically a violent felony, and the case was remanded for resentencing to a non-ACCA sentence. *United States v. Werle*, 815 F.3d 614, 623 (9th Cir. 2016).

On remand, the district court imposed a sentence enhancement under U.S.S.G. §2K2.1(a) due to Mr. Werle's prior convictions for felony harassment via a threat to

kill under Washington Revised Code § 9A.46.020(2)(b)(ii), finding that those convictions were crimes of violence. The district court then calculated Mr. Werle's sentencing guideline range to be between 130 and 162 months, and concluded that a total sentence of 140 months was appropriate. The District Court imposed consecutive sentences on Count 1 and Count 2 in order to achieve this sentence.

Mr. Werle timely appealed. A different Ninth Circuit panel affirmed the district court's imposition of a sentence enhancement under U.S.S.G. §2K2.1(a) based on the defendant's prior convictions for felony harassment under RCW § 9A.46.020(2)(b)(ii). The panel held that because a conviction under RCW § 9A.46.020(2)(b)(ii) necessarily includes a "threatened use of physical force against the person of another," the panel found that a conviction under that section is categorically a crime of violence under §2K2.1(a)(1).

REASONS FOR GRANTING THE WRIT

A. Only this Court can resolve a circuit split over the level of force required to constitute "violent physical force"

One of the issues raised by Mr. Werle below was whether the threats to kill encompassed by the Washington statute constituted the threatened use of violent physical force, as required by *Johnson v. United States*, 559 U.S. 133 (2010). He argued that convictions under RCW § 9A.46.020(2)(b)(ii) "do[] not necessarily include a threatened use of violent physical force, as required by *Johnson v. United States*, 559 U.S.

133 (2010), because one could kill someone via the application of poison or other non-forceful means.” (App. 10).

In rejecting this argument, the Ninth Circuit underlined the existence of a circuit-split over this issue:

Lastly, Werle argues that a threat to kill does not necessarily include a threatened use of violent physical force, as required by *Johnson v. United States*, 559 U.S. 133 (2010), because one could kill someone via the application of poison or other non-forceful means. Werle may have luck with this argument in other circuits, *see, e.g., Whyte v. Lynch*, 807 F.3d 463, 469 (1st Cir. 2015), but we have categorically rejected it, *see Cornejo-Villagrana v. Sessions*, 870 F.3d 1099, 1106 (9th Cir. 2017) (“Therefore, ‘violent force’ is present when there is ‘physical injury’ for purposes of a ‘crime of violence.’”); *United States v. De La Fuente*, 353 F.3d 766, 770–71 (9th Cir. 2003) (threat to injure constitutes a threatened use of force even if the threat was to poison the victim); *Melchor-Meceno*, 620 F.3d at 1186 (“One cannot knowingly place another in fear of being poisoned without threatening to force the poison on the victim.”).

(App. 10-11). There is a significant circuit split over whether the use of “non-forceful means” to cause death constitutes “violent physical force, as required by *Johnson v. United States*, 559 U.S. 133 (2010).” (See App. 10). Some of the cases cited herein describe this conflict as a contrast between ‘direct’ and ‘indirect’ applications of force.

As noted, the First Circuit has determined that such “non-forceful means” do not constitute “violent physical force.” *See Whyte v. Lynch*, 807 F.3d 463, 469 (1st Cir. 2015) (“For example, a person could intentionally cause physical injury by ‘telling the victim he can safely back his car out while knowing an approaching car driven by an independently acting third party will hit the victim’” and finding that Connecticut third-degree assault is not an aggravated felony). The First Circuit is not alone in this

view. See *Chrzanoski v. Ashcroft*, 327 F.3d 188 (2d Cir. 2003) (holding that inclusion of acts of “guile, deception or even deliberate omission” within the statute’s ambit precluded a finding that the statute involved the use of physical force); *United States v. Villegas-Hernandez*, 468 F.3d 874, 879 (5th Cir. 2006) (assault as defined by Texas penal code does not constitute crime of violence under 18 U.S.C. § 16 because statute requires that defendant intentionally, knowingly, or recklessly causes bodily injury to another but does not require that he do so by means of physical force; “[s]uch injury could result from any of a number of acts, without use of ‘destructive or violent force,’ [e.g.,] making available to the victim a poisoned drink while reassuring him the drink is safe, or telling the victim he can safely back his car out while knowing an approaching car driven by an independently acting third party will hit the victim”).

The Ninth Circuit ruled to the contrary in this case. (See App. 10 (citing *Cornejo-Villagrana v. Sessions*, 870 F.3d 1099, 1106)). Other circuits have ruled similarly. See *United States v. Chapman*, 866 F.3d 129, 133 (3d Cir. 2017) (holding that *Castleman* “rejected the contention that knowingly or intentionally poisoning another person does not constitute a use of force”); *United States v. Burns-Johnson*, 864 F.3d 313, 318 (4th Cir. 2017) (explaining that “*Castleman* abrogates [this Court’s] statement in *Torres-Miguel* that the use of poison would not constitute the use of force under *Johnson I*”); *United States v. Verwiebe*, 874 F.3d 258, 261 (6th Cir. 2017) (relying on *Castleman* to reject the claim that “tripping somebody into oncoming traffic, or for that matter perpetrating a sarin gas attack, would not be a crime of violence”); *United States v.*

Jennings, 860 F.3d 450, 458-59 (7th Cir. 2017)(holding that a criminal act “that causes bodily harm to a person necessarily entails the use of physical force to produce the harm.”) *United States v. Schaffer*, 818 F.3d 796 798 (8th Cir. 2016)(“[E]ven though the act of poisoning a drink does not involve physical force, the act of employing poison knowingly as a device to cause physical harm does.”); *United States v. Kendall*, 876 F.3d 1264 (10th Cir. 2017)(holding that *Castleman* rejects any distinction between direct and indirect applications of force); *United States v. Haldemann*, 664 Fed.Appx. 820, 822 (11th Cir. 2016) (*per curiam*) (relying on *Castleman* to hold that “whether that use of force occurs indirectly, rather than directly, by way of the defendant's actions is of no consequence”); *United States v. Redrick*, 841 F.3d 478, 484 (D.C. Cir. 2016)(relying on *Castleman* to reject the poison hypothetical).

It appears that one of the sources of confusion among the circuits is the proper application of this Court’s decision in *Castleman*. By its express terms, *Castleman*'s analysis is not applicable to the physical force requirement for a crime of violence, which “suggests a category of violent, active crimes” that have as an element a heightened form of physical force that is narrower in scope than that applicable in the domestic violence context. 134 S.Ct. at 1411 n.4 (noting that “Courts of Appeals have generally held that mere offensive touching cannot constitute the ‘physical force’ necessary to a ‘crime of violence’ ” and clarifying that “[n]othing in today's opinion casts doubt on these holdings, because ... ‘domestic violence’ encompasses a range of force broader than that which constitutes ‘violence’ simpliciter”).

The argument that all “indirect[]” uses of force satisfy *Johnson*’s use of force requirement has been described as based on the “logical fallacy ... that simply because all conduct involving a risk of the use of physical force also involves a risk of injury then the converse must also be true.” *Dalton v. Ashcroft*, 257 F.3d 200 (2nd Cir. 2001). A host of cases stand for the proposition that the offense must have as an element the use of violent physical force; the element of causing injury or, by extension, death does not suffice. *See, e.g., United States v. Lopez-Patino*, 391 F.3d 1034, 1037 (9th Cir. 2004) (element of causing a child physical injury does not require use of violent force); *United States v. Hernandez-Castellanos*, 287 F.3d 876, 880 (9th Cir. 2002) (element of risk of imminent death or physical injury is not the same as risk that violent physical force will be used); *accord Whyte v. Lynch*, 807 F.3d 463, 468-69 (1st Cir. 2015) (intent to cause physical injury to another person and causing such injury do not require use of violent force); *United States v. Garcia-Perez*, 779 F.3d 278, 283 (5th Cir. 2015) (same re causing death); *United States v. Martinez-Flores*, 720 F.3d 293, 300 n. 9 (5th Cir. 2013) (same re causing significant bodily injury); *United States v. Gomez*, 690 F.3d 194, 201 (4th Cir. 2012) (same re malicious act resulting in physical injury); *United States v. Andino-Ortega*, 608 F.3d 305, 309, 311 (5th Cir. 2010) (same re intentionally causing physical injury to a child); *United States v. Perez-Vargas*, 414 F.3d 1282, 1285, 1287 (10th Cir. 2005) (same re causing bodily injury using deadly weapon); *Chrzanoski v. Ashcroft*, 327 F.3d 188 (2d Cir. 2003) (same re intentionally causing physical injury). Thus, it is clear that the causation of an injury is not sufficient to find the violent use of physical

force. What is not clear is whether the indirect use of non-violent force meets the *Johnson* requirements for use of physical force.

As this Court has noted, “Caesar’s death at the hands of Brutus and his fellow conspirators was undoubtedly violent; the death of Hamlet’s father at the hands of his brother, Claudius, by poison, was not.” *Rummel v. Estelle*, 445 U.S. 263, 282 n. 27 (1980). If a murder need not be violent, a threat to kill need not be either.

B. Guidance is necessary regarding the threatened uses of force, as opposed to the actual use of force

Revised Code of Washington (“RCW”) 9A.46.020, the statute at issue in this case, provides:

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. “Words or conduct”

includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

Harassment under Washington law can occur at a distance, with indefinite terms, including threats “in the future.” There is no requirement that the speaker have the intent to carry out the threat or that the speaker appear to have the capability of doing so. The statute lacks the requirement of a substantial risk that the threat be carried out, and there is no intent requirement on the part of the perpetrator. Rather, the only state of mind at issue is whether the person threatened reasonably feels fear. The crime is one of words, rather than one of violent physical force.

In *Johnson v. United States*, 559 U.S. 133 (2010), this Court held that a defendant’s prior battery conviction under Florida law was not a “violent felony” under the ACCA. In doing so, the court interpreted the phrase “physical force” in the ACCA’s “force clause,” section 924(e)(2)(B)(i), to mean “violent force” because a common-law meaning of the word “force” (such as the offensive touching elements of the battery conviction) did not fit in the context of the statutory category of a “violent felony.” *Johnson*, 559 U.S. at 140 (“Nothing in the text of § 924(e)(2)(B)(i) suggests that “force” in the definition of a “violent felony” should be regarded as a common-law term of art used to define the contours of a misdemeanor.”). The Court held, the physical force involved must be “violent force - that is, force capable of causing physical pain or injury to another person.” *Johnson*, 559 U.S. at 140.

This Court has held that the physical force requirement entails “active employment of force.” *Leocal v. Ashcroft*, 543 U.S. 1, 9 (2004). *Leocal* has been interpreted as requiring proof that the use of force was “intentional.” See, e.g., *Fernandez-Ruiz v. Gonzales*, 466 F.3d 1121, 1132 (9th Cir. 2006) (*en banc*) (“The bedrock principle of *Leocal* is that to constitute a federal crime of violence an offense must involve the intentional use of force.”). In other words, the perpetrator must act with the purpose of causing harm and not by accident. *Id.* at 1129-30. “Reckless conduct, as generally defined, is not purposeful,” and will not suffice. *Id.* at 1130.

Confusion arises, however, in offenses such as Washington harassment which involve threats of force, as opposed to actual use of force. Nevertheless, since actual employment of violent physical force must be intentional, it would be illogical and nonsensical to allow for threats of employment of violent physical force to have a lesser *mens rea* of recklessness, or some other standard. Thus, in order for threats to constitute crimes of violence, they must follow the same principles as the actual employment of violent physical force. The discrepancy with the Washington harassment statute is that the elements inquire not as to what the defendant actually did, but instead focus on how the victim felt. This inquiry shifts away from the intentional use of violent physical force toward another person’s perception of what might happen some unspecified time in the future. This inquiry does not necessitate a

finding that a defendant intentionally used violent physical force. The guidance provided by *Johnson* and *Leocal* to such statutes is thus minimal.

Further confusion has arisen over the proper application of this Court's decision in *United States v. Castleman*, 134 S. Ct. 1405 (2014). *Castleman* called upon this Court to decide whether a crime could qualify as a "misdemeanor crime of domestic violence" when it required only "common-law force," which includes the mere offensive touching that suffices to commit common-law battery. The Court had previously held that such minimal force does not qualify as the violent force that makes an offense a violent crime -- i.e., a "crime of violence" or "violent felony." See *Johnson v. United States*, 559 U.S. 133 (2010); *Leocal v. Ashcroft*, 543 U.S. 1 (2004). *Castleman* determined that, for several reasons, "physical force" for purposes of violent crimes is distinguishable from "physical force" for purposes of domestic violence. For example, the Court noted that "whereas the word 'violent' or 'Violence' standing alone 'connotes a substantial degree of force,' that is not true of 'domestic violence.'" 134 S. Ct. at 1411 (*quoting Johnson*, 559 U.S. at 140). The Court ultimately held that a "misdemeanor crime of domestic violence" requires only the "minimal force" needed to commit a common-law battery and that "[i]t is impossible to cause bodily injury without applying force in the common-law sense." *Id.* at 1414-15. A crime requiring bodily injury, therefore, necessarily meets the "physical force" element in the definition of a "misdemeanor crime of domestic violence."

Continuing to distinguish between the “common-law force” required to commit a “misdemeanor crime of domestic violence” and the “violent force” required to commit a “crime of violence” or a “violent felony,” *Castleman* expressly declined to decide “[w]hether or not the causation of bodily injury necessarily entails violent force.” *Id.* at 1413. In *Castleman*, this Court indicated that the administration of poison and other indirect applications of force might nonetheless constitute a use of “physical force” in the common law sense. True, the Court later stated that “the knowing or intentional causation of bodily injury necessarily involves the use of physical force.” *Id.* at 1414. But the Court had just held that “physical force” has a different meaning for the purpose of defining violent crimes. And it clarified again in the very next paragraph that it was “not decid[ing]” whether certain “forms of injury necessitate violent force.” *Id.* Instead, it held only that they “necessitate force in the common-law sense.” *Id.* *Castleman* thus did not address and resolve the broader question of whether the causation of harm necessarily requires the use of violent force under *Johnson*.

This Court's decision in *Castleman*, though changing the contours of the circuit split, has not resolved it. The Seventh, Eighth, and Ninth Circuits have found that *Castleman* supported their existing precedent, under which statutes criminalizing acts that cause bodily harm are categorically crimes of violence. *United States v. Waters*, 823

F.3d 1062, 1066 (7th Cir. 2016); *United States v. Rice*, 813 F.3d 704, 705-06 (8th Cir. 2016); *United States v. Calvillo-Palacios*, 860 F.3d 1285, 1291 (9th Cir. 2017).

The Fourth and Tenth Circuits found that *Castleman* required them to change sides on the circuit split. Those courts concluded that the “logic” underlying circuit precedent - which had held that convictions under statutes prohibiting acts that cause bodily harm are not “crimes of violence” - was “no longer good law in light of *Castleman*.” *United States v. Ontiveros*, 875 F.3d 533, 536-38 (10th Cir. 2017) (abrogating *United States v. Perez-Vargas*, 414 F.3d 1282 (10th Cir. 2005), and *United States v. Rodriguez-Enriquez*, 518 F.3d 1191 (10th Cir. 2008)); accord *United States v. Reid*, 861 F.3d 523, 526-29 (4th Cir. 2017) (abrogating *United States v. Torres-Miguel*, 701 F.3d 165 (4th Cir. 2012)).

The First Circuit - while reserving the question whether *Castleman* supports the view that “causing injury” necessarily “involves the ‘use of physical force’ ” (*Whyte*, 815 F.3d at 92) - distinguished *Castleman* because it interpreted 18 U.S.C. § 922(g)(9), not 18 U.S.C. § 16(a). *Whyte*, 807 F.3d at 471. The First Circuit stated that the two statutes “serve different purposes and are doing different work,” so it is reasonable that the “physical force” standard could be satisfied by “ ‘mere offensive touching’ ” under section 922(g)(9) but require “violent force” under section 16(a). *Ibid.*

Finally, the Fifth Circuit held that “*Castleman* does not disturb this court's precedent regarding the characterization of crimes of violence.” *United States v. Rico-*

Mejia, 859 F.3d 318, 322-23 (5th Cir. 2017). The Fifth Circuit explained: “By its express terms, *Castleman*’s analysis is not applicable to the physical force requirement for a crime of violence, which ‘suggests a category of violent, active crimes’ that have as an element a heightened form of physical force that is narrower in scope than that applicable in the domestic violence context.” *Id.* at 322. Thus, as the Tenth Circuit recently recognized, the Fifth Circuit continues to hold post-*Castleman* that violations of statutes prohibiting acts that cause bodily harm are not “crimes of violence” because the statutes do not include physical force as an element. *Ontiveros*, 875 F.3d at 537-38.

The difficulty in applying this conflicting analysis is particularly acute with a statute such as Washington harassment. That statute involves threatened uses of force, as opposed to actual uses of force. It lacks any temporal requirement, and is defined in terms of the alleged victim’s perception, and not the actor’s intent. The split in the circuits, which has been further obfuscated by this Court’s opinion in *Castleman*, has only intensified the need for this Court to bring clarity to this area of law.

CONCLUSION

The time is ripe to clarify *Johnson*'s definition of "violent force." Other than reaffirming that definition in *Castleman*, 134 S. Ct. at 1411 n.4, the Court has not clarified *Johnson* since deciding it over seven years ago. Moreover, the meaning of that decision is now of paramount importance in light *Johnson v. United States* ("*Johnson II*"), 576 U.S. ___, 135 S. Ct. 2551 (2015), which declared the ACCA's residual clause void for vagueness. The residual clause had previously acted as a broad catchall under which many offenses qualified as violent felonies. Without the residual clause, however, the elements clause has become the primary battleground. Parties, probation officers, and lower courts are now routinely required to assess whether offenses satisfy that element clause. Its meaning should be uniform across the nation. The question of whether causation of bodily harm necessitates violent physical force cannot be avoided, and should be decided. The rampant uncertainty described above on this question is intractable because it derives from this Court's opinion in *Johnson* itself.

Based on the conflicts among the circuits and uncertainties in the law as discussed herein, it is requested that this Court grant this Petition for Writ of Certiorari, reverse the Ninth Circuit's decision affirming Mr. Werle's sentence, and remand with instructions to conduct further proceedings consistent with this Court's decision in this matter.

Dated: March 8, 2018

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Matt Campbell', with a large, sweeping loop at the end.

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