

No. 17-8632

IN THE SUPREME COURT OF THE UNITED STATES

LINDSEY JOHNSON, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 27-33) that carjacking, in violation of 18 U.S.C. 2119, does not qualify as a “crime of violence” within the meaning of 18 U.S.C. 924(c)(3).¹ That issue does not warrant this Court’s review. For the reasons stated in the government’s brief in opposition to the similar petition for a writ of certiorari in Chaney v. United States, No. 17-7592 (cert. denied June 25, 2018), the federal offense of carjacking qualifies as a “crime of violence” under 18 U.S.C. 924(c)(3)(A) because it

¹ The same question is presented in Leon v. United States, No. 17-8008 (filed Feb. 13, 2018).

“has as an element the use, attempted use, or threatened use of physical force against the person or property of another.” Ibid.; see Br. in Opp. at 5-10, Chaney, supra (No. 17-7592).² Every court of appeals to have considered the question has so held. Br. in Opp. at 8, Chaney, supra (No. 17-7592). And this Court has recently and repeatedly denied review in other cases raising the issue. See id. at 6 & n.1; Chaney v. United States, No. 17-7592 (cert. denied June 25, 2018); Stevens v. United States, No. 17-7785 (cert. denied June 25, 2018).

Because carjacking qualifies as a “crime of violence” under Section 924(c)(3)(A), no reason exists to consider petitioner’s argument (Pet. 13-15, 27-33) that the alternative “crime of violence” definition in 18 U.S.C. 924(c)(3)(B) is unconstitutionally vague. Nor does any reason exist to remand this case to the court of appeals for further consideration in light of this Court’s recent decision in Sessions v. Dimaya, 138 S. Ct. 1204 (2018), which does not address any question that could affect the outcome of a case, like this one, that is resolved by the application of Section 924(c)(3)(A). See Br. in Opp. at 10-11, Chaney, supra (No. 17-7592).

² The government has served petitioner with a copy of the brief in opposition in Chaney.

The petition for a writ of certiorari should be denied.³

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

JUNE 2018

³ The government waives any further response to the petition unless this Court requests otherwise.