

IN THE  
**Supreme Court of the United States**

---

CHRISTOPHER LONDONIO, *et al.*,

*Petitioners,*

*v.*

UNITED STATES OF AMERICA, *et al.*,

*Respondents.*

---

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

---

---

**REPLY MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI**

---

BRIAN A. JACOBS  
MORVILLO ABRAMOWITZ  
GRAND IASON & ANELLO P.C.  
565 Fifth Avenue  
New York, NY 10017  
(212) 856-9000  
bjacobs@maglaw.com

*Attorneys for Petitioner  
Terrance Caldwell*

CLARA S. KALHOUS  
*Counsel of Record*  
CLARA S. KALHOUS, ESQ.  
116 Pinehurst Avenue #H13  
New York, NY 10033  
(347) 415-9523  
clara.kalhous@gmail.com

*Attorney for Petitioner  
Christopher Londonio*

April 11, 2025

---

IN THE SUPREME COURT OF THE UNITED STATES

---

No. 24-6399

CHSTIOPHER LONDONIO AND TERRANCE CALDWELL, PETITIONERS,

v.

UNITED STATES OF AMERICA

---

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

---

REPLY MEMORANDUM IN SUPPORT OF PETITION FOR A WRIT OF  
CERTIORARI

---

Respondent United States argues that this Court should decline to hear this case because the Court's recent decision in *Delligatti v. United States*, No. 23-825, 2025 WL 875804, has answered the first Question Presented in the petition, i.e., whether a crime that requires proof of bodily injury or death but can be committed by failing to take action, has as an element the use, attempted use, or threatened use of physical force, thereby qualifying as a 'crime of violence' under 18 U.S.C. § 924(c)(3)(A). *See* Memorandum for the United States at 1-2; *see also Londonio et al. v. United States*, 24-6399, Petition for a Writ of Certiorari at i.

Respondent is undeniably correct that *Delligatti* decides the first question in Respondent’s favor. *Delligatti* affirms that a crime of omission, specifically murder in the second degree under New York Penal Law § 125.25(1), is a crime of violence because the knowing or intentional causation of injury or death, even by omission, involves the “use” of “physical force” against another person within the meaning of § 924(c)(3)(A). However, *Delligatti*’s holding does not end this case or answer the second question in Petitioners’ petition:

Whether murder in aid of racketeering (“VICAR murder”), in violation of 18 U.S.C. § 1959(a)(1), is an indivisible offense requiring a categorical analysis based on the generic federal definition of murder (18 U.S.C. § 1111(a)) or a divisible offense to which the modified categorical approach applies for crime of violence predicate analysis under 18 U.S.C. § 924(c)(3)(A).

*Londonio et al. v. United States*, 24-6399, Petition for a Writ of Certiorari at i.

As Petitioners discuss, the circuits are split on the answer to this question, despite the Congressional Record’s clear instruction that the generic definition of murder should apply to prosecutions under 18 U.S.C. § 1959. *See* 129 CONG. REC. S1, 22,906 (daily ed. Aug. 4, 1983) (§ 1959 is intended to apply to crimes including murder “*in a generic sense*”) (emphasis added). Yet, courts across the country differ widely in their interpretation of 18 U.S.C. § 1959. *See Sorto v. United States*, No. CR 08-167-4 (RJL), 2022 WL 558193, at \*3 n7 (D.D.C. Feb. 24, 2022) (noting the differing approaches and collecting cases); *see also Londonio et al. v. United States*, 24-6399, Petition for a Writ of Certiorari at 19-22. At the same time, the Government has argued both sides of the issue. *see also Londonio et al. v. United States*, 24-6399, Petition for a Writ of Certiorari at 23-24 (discussing cases). The

result is an uneven application of federal law in the circuits. In fact, if Petitioners had been convicted of the same crime in Maryland or California instead of New York, their offense – murder in the second degree – would not have been an adequate predicate crime of violence to support their § 924 conviction. *See Londonio et al. v. United States*, 24-6399, Petition for a Writ of Certiorari at 25-26 (discussing cases).

To avoid this inequitable result, the Court should grant certiorari and clarify that, as per Congress’s stated intent, the generic, federal definition of murder should be applied in the VICAR crime of violence analysis.

Respectfully submitted,

/s/Clara S. Kalhous

Clara Kalhous,

*Counsel of Record*

116 Pinehurst Avenue #H13

New York, NY 10033

(347) 415-9523

clara.kalhous@gmail.com

*Attorney for Petitioner*

*Christopher Londonio*

/s/Brian Jacobs

Brian A. Jacobs

MORVILLO ABRAMOWITZ

GRAND IASON & ANELLO P.C.

565 Fifth Avenue

New York, NY 10017

(212) 856-9000

bjacobs@maglaw.com

*Attorneys for Petitioner*

*Terrance Caldwell*

April 11, 2025