No. _____

In the Supreme Court of the United States

_____

Eddie Hudson,
Petitioner,

v.

United States of America,
Respondent

_____

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

_____

PETITION FOR A WRIT OF CERTIORARI

_____

Taylor Wills Edwards "T.W." Brown
Assistant Federal Public Defender
Northern District of Texas
P.O. Box 17743
819 Taylor Street, Room 9A10
Fort Worth, TX 76102
(817) 978-2753
Taylor_W_Brown@fd.org
Texas Bar No. 24087225

QUESTION PRESENTED

I. In *Taylor v. United States*, this Court announced a categorical approach to recidivism enhancements in federal sentencing. *See* 495 U.S. 575, 602 (1990). The basic analysis requires an elements-to-elements comparison between a defendant's prior convictions and the generic offense or offenses singled out for special treatment by a sentencing statute or the U.S. Sentencing Guidelines Manual. Since the test focuses on substance, not labels, "minor variations in terminology" cannot overcome actual correspondence between elements. *See id*. at 599.

Here, the Fifth Circuit relied on *Taylor*'s minor-variation-in-terminology language to declare irrelevant a substantive difference between Arkansas robbery and the new Hobbs Act-inspired "robbery" definition from the Guidelines. The Arkansas robbery statute defines the offense to include post-taking assaults that help a would-be thief "resist[] apprehension." ARK. CODE ANN. § 5-12-102(a). The same after-the-fact injury would be insufficient to prove a taking "by means of" force as required by the Hobbs Act and the Guidelines. To date, no other Court of Appeals has misapplied *Taylor*'s minor-variation-in-terminology caveat to paper over a substantive mismatch between corresponding elements reaching different types of conduct.

The question presented is this: did the Fifth Circuit misapply the categorical approach by dismissing an elemental mismatch as a mere variation in terminology?

LIST OF PARTIES

Eddie Hudson, petitioner on review, was the Defendant-Appellant below. The United States of America, respondent on review, was Plaintiff-Appellee. No party is a corporation.

RELATED PROCEEDINGS

- *United States v. Eddie Hudson*, No. 4:24-CR-140-Y, U.S. District Court for the Northern District of Texas. Judgment and sentence entered on November 27, 2024.

- *United States v. Eddie Hudson*, No. 24-11070, U.S. Court of Appeals for the Fifth Circuit. Opinion and judgment entered on December 5, 2025.

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES

Federal Statutes

Federal Sentencing Guidelines

State Statutes

Federal Cases

State Cases

PETITION FOR A WRIT OF CERTIORARI

Eddie Hudson respectfully petitions for a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit.

OPINION BELOW

The Fifth Circuit's published opinion is reprinted at Pet.App.a1-a5. It can also be found in the Federal Reporter at 161 F.4th 263.

JURISDICTION

The Fifth Circuit issued an opinion on December 5, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT PROVISIONS

This case turns on the "robbery" definition from the U.S. Sentencing Guidelines Manual. Section 4B1.2(a) of the Guidelines lists "robbery" as a "crime of violence." U.S. SENTENCING COMM'N, GUIDELINES MANUAL § 4B1.2(a)(2) (Nov. 1, 2023). A separate subsection defines the enumerated offense as:

> [T]he unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining. The phrase 'actual or threatened force' refers to force that is sufficient to overcome a victim's resistance.

USSG § 4B1.2(e)(3).

STATEMENT OF THE CASE

I. Based on an earlier published opinion concerning Texas robbery, the Fifth Circuit declared in this case a categorical match between Arkansas robbery and the new elements-based definition for "robbery" in the Guidelines Manual.

Mr. Hudson's appeal presented the Fifth Circuit with a preserved issue of first impression. The district court applied a higher base offense level under the Guidelines after characterizing a prior conviction for Arkansas robbery as a "crime of violence." Pet.App.a2. Mr. Hudson objected and argued that Arkansas robbery was "a categorical mismatch for the robbery definition" found in the Guidelines. Pet.App.a3. The district court overruled the objection and sentenced Mr. Hudson "at the top" of the applicable advisory range. Pet.App.a2. Mr. Hudson advanced the same claim on appeal. *See* Pet.App.a4-a5. He "argue[d] that Guidelines robbery includes a causal nexus, requiring the taking to be done by means of force." Pet.App.a4. By contrast, the Arkansas robbery statute "is defined to include force or threats employed to 'resist apprehension' immediately after committing a felony or misdemeanor theft." Pet.App.a4 (quoting ARK. CODE ANN. § 5-12-102(a)).

Although "no precedential opinions" addressed "the unique question presented," the Fifth Circuit flagged *United States v. Wickware*, a recent published opinion concerning Texas robbery, as relevant. There, the Fifth Circuit resolved a "similar sentencing challenge" in the government's favor. Pet.App.a3 (citing 143 F.4th 670, 675 (5th Cir. 2025)). "In that case, Texas had on the books a robbery statute that closely mirrored Arkansas' definition," but "neither definition," the

Fifth Circuit conceded, "fit[] neatly into the new" elements-based "robbery" definition from the Guidelines. Pet.App.a3. "Despite that fact," the Fifth Circuit "held that Texas robbery still qualified as a crime of violence." *Id.* (citing *Wickware*, 143 F.4th at 675).

From there, the Fifth Circuit relied upon *Wickware* to reject Mr. Hudson's argument concerning Arkansas robbery. That argument characterized as "substantial" the "difference between a theft by means of actual force and a theft wherein the perpetrator uses force . . . after the illegal taking." Pet.App.a4-a5. Relying on language from *Wickware*, the Fifth Circuit rejected Mr. Hudson's underlying claim and instead dismissed the difference between Arkansas robbery and the definition from the Guidelines as a "minor variation[] in terminology." Pet.App.a5 (quoting *Wickware*, 143 F.4th at 674). The Fifth Circuit thus affirmed the district court's categorical analysis and Mr. Hudson's 41-month term of imprisonment. *See* Pet.App.a5, a7.

REASONS FOR GRANTING THIS PETITION

I. The Fifth Circuit has again misapplied the categorical approach from *Taylor v. United States*.

a. In *Taylor*, this Court recognized that "minor variations in terminology" could not overcome a categorical match between elements that corresponded in substance.

The categorical approach announced in *Taylor* turns on substance, not labels. There, this Court interpreted the term "burglary" as it appeared in 18 U.S.C. § 924(e). *Taylor v. United States*, 495 U.S. 757, 579 (1990) (citing 18 U.S.C. §

924(e)(2)(B)(ii)). It held that § 924(e)'s use of the undefined term "burglary" incorporated "the generic sense in which the term is now used in the criminal codes of most States." *Id*. at 598. This Court then described the underlying elements of generic "burglary." "[A] person has been convicted of burglary for purposes of a § 924(e) enhancement," it explained, "if he is convicted of any crime, regardless of its exact definition or label, having the basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime." *Id*. at 599. The analysis from *Taylor* turned on the actual conduct covered by the predicate crime's elements, not the specific wording of the statute at issue. "[I]f the defendant was convicted of burglary in a State where the generic definition has been adopted, with minor variations in terminology, then the trial court need find only that the state statute corresponds in substance to the generic meaning of burglary." *Id*.

b. The Fifth Circuit mistakenly relied on *Taylor*'s minor-variation-in-terminology language to reject a substantive mismatch between Arkansas robbery and the new Hobbs Act-inspired "robbery" definition from the Guidelines.

The Fifth Circuit misapplied *Taylor* in both *Wickware*, and by extension, Mr. Hudson's case. The analysis from *Taylor* should have required a side-by-side comparison of the elements underlying Arkansas robbery and the elements of the new Hobbs Act-inspired robbery definition in the Guidelines. *See id*. at 602. The Fifth Circuit instead resolved the merits in *Wickware* based on a plain-meaning comparison of the texts alone. *See Wickware*, 143 F.4th at 674. This approach

allowed the Fifth Circuit to dismiss the difference between the two phrases at issue as a "minor variation[] in terminology," *see id.* (quoting *Taylor*, 495 U.S. at 599), but the challenge went beyond a merely textual comparison. The Fifth Circuit should have considered the scope of the elements embodied in those texts and their interpretation by courts in response to real-world prosecutions.

With regard to Arkansas robbery, the same comparison would have revealed a categorical mismatch between that predicate offense and the conduct necessary to establish "robbery" under the Guidelines. Case law proves the point. In *Becker v. State*, the Supreme Court of Arkansas affirmed a conviction for robbery where the would-be thief actually returned the stolen item—"some ham" shoplifted from a supermarket—to "an off-duty police officer who helped with security in the store" before pushing the officer in an after-the-fact attempt to escape detention. 768 S.W.2d 527, 528-29 (Ark. 1989). The Tenth Circuit, by contrast, has interpreted the Hobbs Act's "robbery" definition to exclude such injuries following non-violent takings. In *United States v. Smith*, the defendant committed larceny by "enter[ing] a sporting goods store" and "ask[ing] a sales associate if he could see two" handguns "from the display case." *United States v. Smith*, 156 F.3d 1046, 1048 (10th Cir. 1998). After an employee handed over the requested firearms, the defendant ran out of the store and into a getaway car waiting for him in the parking lot. *Id.* Three employees chased him into the parking lot, and while the getaway car drove off, the driver "struck" one of the employees and "broke his ankle." *Id.* On those facts, a jury voted to convict the defendant for Hobbs Act robbery, but on appeal, the Tenth

Circuit reversed the conviction for insufficient evidence. *Id*. at 1056. That holding turned on the non-violent taking. The employee at the gun counter "handed two guns to someone who he obviously thought was an ordinary customer." *Id*. "The 'customer' then simply turned and ran." *Id*. At that point, the taking was complete, and the ensuing relationship between the taking and the employee's injury was insufficient to make out a Hobbs Act robbery. "The fact that several employees followed Mr. Smith into the parking lot, and that [one] was injured by the getaway car, does not support a finding that Mr. Smith took the guns by means of force or violence." *Id*.

The same analysis applies to the "robbery" definition from the Guidelines. That definition tracks the Hobbs Act verbatim. *Compare* U.S. SENTENCING COMM'N, GUIDELINES MANUAL § 4B1.2(a)(2), (e)(3) (Nov. 1, 2023), *with* 18 U.S.C. § 1951(b)(1). To qualify as a "robbery" conviction, and thus a "crime of violence," a prior conviction's elements must now include an "unlawful taking" committed "by means of actual or threatened force, or violence, or fear of injury." USSG § 4B1.2(a)(2), (e)(3). As the Tenth Circuit recognized in *Smith*, the phrase "by means of" requires a means-end relationship between the assault and the taking, and "the connection between the two" must therefore be "more than oblique, indirect, and incidental." *See Loughrin v. United States*, 573 U.S. 351, 363 (2014). The Tenth Circuit's interpretation of the Hobbs Act recognized as much, and an after-the-fact injury following a non-violent theft cannot "transform the nature of the original crime from a theft into a robbery" under the Hobbs Act or the Guidelines. *See Smith*, 156 F.3d

at 1056. In Arkansas, the same conduct qualifies as robbery due the statute's unique wording. *See Becker*, 768 S.W.2d at 528-29. That substantive difference should have played a central role in the Fifth Circuit's analysis below. It did not, and in *Wickware*, the Fifth Circuit first mistakenly characterized a substantive distinction between two crimes as a "minor variation[] in terminology." *See* 143 F.4th at 674 (quoting *Taylor*, 495 U.S. at 599). It relied on the same flawed analysis to reject Mr. Hudson's preserved sentencing challenge below. Pet.App.a5 (quoting *Wickware*, 143 F.4th at 674).

c. To date, no other Circuit Court of Appeals has misapplied *Taylor* in the same way.

By misapplying *Taylor* in this way, the Fifth Circuit has put itself on an island, and to date, no other circuit court has committed the same analytical error. In *United States v. Faulkner*, for example, the Tenth Circuit correctly applied *Taylor*'s minor-variation-in-terminology caveat to reject a purely textual argument advanced by a defendant. There, the defendant had previously been convicted for "endeavoring to manufacture methamphetamine" in violation of Oklahoma law. *United States v. Faulkner*, 950 F.3d 670, 673 (10th Cir. 2019). The district court identified that conviction as a "controlled substance offense" under the Guidelines, and based on that finding, used a higher base-offense level at sentencing. *Id*. The Guidelines defined the term "controlled substance offense" to include attempts, and on appeal, the defendant argued that the use of a different term—"endeavor"—in the Oklahoma statute made the district court's Guidelines error clear or obvious. *Id*. at 678-79. The Tenth Circuit correctly rejected that argument as inconsistent

with *Taylor*. "[T]he categorical approach," it explained, "does not depend on mere differences in language." *Id*. at 679.

For its part, the Fourth Circuit correctly applied *Taylor* in *United States v. Dinkins*. There, it asked whether the defendant's prior conviction for North Carolina robbery had, as an element, the use or threatened use of force under § 924(e). *United States v. Dinkins*, 928 F.3d 349, 352 (4th Cir. 2019). "Under North Carolina law," the Fourth Circuit explained, "common law robbery is the 'felonious, non-consensual taking of money or personal property from the person or presence of another by means of violence or fear.'" *Id*. at 355 (quoting *State v. Smith*, 292 S.E.2d 264, 270 (N.C. 1982)). North Carolina courts had interpreted the "violence" element to include the force necessary "to 'overcome the party robbed or prevent his resisting.'" *Id*. at 356 (quoting *State v. Robertson*, 531 S.E.2d 490, 494 (N.C. 2000)). The defendant argued that this formulation differed from the one necessary to show force under § 924(e), but the Fourth Circuit rejected the claim as purely semantic. "Simply put, North Carolina's use of slightly different language to describe the force necessary for robbery does not place North Carolina common law robbery beyond the reach" of § 924(e). *Id*. at 357 (citing *Taylor*, 495 U.S. at 599).

The Fifth Circuit is the first circuit court to misapply *Taylor*'s mere-variation-in-terminology caveat. The Fourth and Tenth Circuits cited the same language to focus their attention on the substance of the underlying elements, not the labels used. *Faulkner*, 950 F.3d at 679; *Dinkins*, 928 F.3d at 357. The Fifth Circuit, by contrast, used the same language in *Wickware* to paper over a substantive

mismatch between elements reaching different types of conduct. *See* 143 F.4th at 674 (quoting *Taylor*, 495 U.S. at 599). That approach turns *Taylor* on its head, and by relying on *Wickware* to reject Mr. Hudson's claim concerning Arkansas robbery, the Fifth Circuit compounded the original error and affected the result in this case. Pet.App.a4-a5.

II. The Court should grant certiorari to address the Fifth Circuit's analytical error.

This petition provides the Court with an opportunity to ensure across-the-board continuity on an important question of federal law. Since *Taylor*, the categorical approach has applied to federal sentencing statutes and the Guidelines. This Court and others have always understood the analysis to require a comparison between elements, not labels. Despite that, the Fifth Circuit recently misapplied *Taylor* in a case involving Texas robbery by dismissing a substantive distinction between two crimes as a as a "minor variation[] in terminology." *Wickware*, 143 F.4th at 674 (quoting 495 U.S. at 599). It then relied on the same faulty analysis to reject Mr. Hudson's challenge concerning Arkansas robbery and to affirm his 41-month term of imprisonment. *See* Pet.App.a5, a7. Both opinions are published and involve a fundamental misapplication of the categorical approach. As evidenced by this case, the error will continue to spread until this Court steps in to correct the Fifth Circuit's analytical mistake. Mr. Hudson's 41-month sentence provides enough time for this Court to correct the error while ensuring meaningful relief on remand. This Court should take the opportunity.

CONCLUSION

Petitioner respectfully asks this Court to grant *certiorari* to review the judgment of the United States Court of Appeals for the Fifth Circuit.

Submitted March 5, 2026.

/s/ Taylor Wills Edwards "T.W." Brown
Taylor Wills Edwards "T.W." Brown
Assistant Federal Public Defender
Northern District of Texas
P.O. Box 17743
819 Taylor Street, Room 9A10
Fort Worth, TX 76102
(817) 978-2753
Taylor_W_Brown@fd.org
Texas Bar No. 24087225

Attorney for Petitioner