

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

EDDIE HUDSON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

/s/ Taylor Wills Edwards "T.W." Brown
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United States v. Hudson, Dist. Court No. 4:24-CR-140-Y

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

No. 24-11070

United States Court of Appeals
Fifth Circuit

FILED

December 5, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

EDDIE HUDSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-140-1

Before HIGGINBOTHAM, HO, and DOUGLAS, *Circuit Judges.*

PER CURIAM:

Eddie Hudson appeals his sentence for being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). Hudson contends that the district court erred in calculating his sentence per the United States Sentencing Guidelines. Having found no error, we AFFIRM.

I.

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On September 4, 2008, Hudson pleaded guilty and served 15 years for robbery, a felony offense, in Desha County, Arkansas.¹

On August 8, 2024, Hudson pleaded guilty to possession of a firearm by a convicted felon. The district court sentenced Hudson to 41 months in prison and imposed a three-year term of supervised release. On appeal, Hudson challenges the district court's Presentence Investigation Report's ("PSR") base offense level categorization of 19. Specifically, Hudson argues that the district court erred by including his 2008 offense of Arkansas robbery as a prior enumerated crime of violence.

Hudson objected to the findings of his PSR, arguing that Arkansas robbery was categorically broader than the United States Sentencing Guidelines' (the "Guidelines") definition of robbery and that it therefore should not qualify as a crime of violence for the purposes of calculating his base offense level.² At his sentencing hearing, the district court noted Hudson's objection but found that his base offense level was properly calculated and sentenced him at the top of the Guidelines.³

II.

Hudson now asks our court to consider the effect of Amendment 822 to the Guidelines on our precedent and its potential application to his total offense level. Amendment 822 codified the definition of Hobbs Act robbery into the Guidelines' list of prior enumerated offenses to be considered at

¹ Two additional counts for (1) theft of property and (2) felon in possession of a firearm were dismissed upon acceptance of Hudson's guilty plea.

² In response to Hudson's objection, the probation officer assigned to the case filed an addendum affirming his base level calculation of 19, concluding that Arkansas robbery was properly classified as a prior crime of violence.

³ Hudson's PSR cited U.S.S.G. § 4A1.3(a), noting that Hudson's criminal history category "substantially underrepresent[ed]" the likelihood of his recidivism.

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sentencing. Arkansas robbery, Hudson argues, is a categorical mismatch for the robbery definition adopted by the Guidelines in Amendment 822.

Hudson does not challenge his robbery conviction, only its characterization as a crime of violence under the Guidelines. We review this characterization de novo. *United States v. Medina-Anicacio*, 325 F.3d 638 (5th Cir. 2003).

A.

Hudson first contends that there are no precedential opinions from our court on the unique question presented. Following the filing of his brief, however, our court ruled on a similar sentencing challenge in *United States v. Wickware*, 143 F.4th 670 (5th Cir. 2025). On rehearing, we held that a criminal defendant's prior Texas robbery conviction was properly categorized as a crime of violence when calculating his base offense level. *Id.* at 675. In that case, Texas had on the books a robbery statute that closely mirrored Arkansas' definition—neither definition fits neatly into the new Amendment 822 definition of robbery. Despite that fact, our court held that Texas robbery still qualified as a crime of violence under the Guidelines. *Id.*

In two prior unpublished decisions, our court resolved the question of whether Arkansas robbery must be considered a crime of violence in the affirmative. *See United States v. Gray*, 824 F. App'x 258 (5th Cir. 2020); *United States v. Farris*, 312 F. App'x 598 (5th Cir. 2009). While Hudson is correct that neither opinion binds this court, their analyses provide helpful insight in evaluating Hudson's appeal.

B.

In determining whether Arkansas robbery properly corresponds to Amendment 822's definition of robbery, we must ascertain whether the elements of the two offenses—Arkansas "robbery" and Guidelines

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“robbery”—are a categorical match. *Wickware*, 143 F.4th at 674. “If the elements of the prior offense are the same or narrower than those of the generic offense, then it qualifies for whatever consequences under federal law attach to the generic offense.” *Wickware*, 143 F.4th at 674 (quoting *United States v. Martinez-Rodriguez*, 857 F.3d 282, 285 (5th Cir. 2017)). “However, if its elements are broader, then the prior offense is not treated as an equivalent to the generic offense.” *Id.*

Relevant here, Amendment 822 added the following definition of robbery into the Guidelines:

“Robbery” is the 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.

U.S.S.G. § 4B1.2(e)(3).

Hudson contends that Arkansas robbery is categorically broader than the Guidelines definition. He argues that Guidelines robbery includes a causal nexus, requiring the taking to be done by means of force. Arkansas has no such requirement. Arkansas robbery is defined to include force or threats employed to “resist[] apprehension” immediately after committing a felony or misdemeanor theft. ARK. CODE ANN. § 5-12-102(a).

Hudson argues that there is a mismatch between Arkansas robbery and Guidelines robbery because, per the Arkansas statute, the act of force may take place either before, or in immediate flight following the theft. Hudson therefore finds a substantial difference between a theft *by means of*

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actual force and a theft wherein the perpetrator uses force either before or immediately after the illegal taking. We find no such difference. “The Supreme Court has stated that ‘minor variations in terminology’ do not trump the observation that ‘the state statute corresponds in substance to the generic meaning.’ *Wickware*, 143 F.4th at 674 (quoting *Taylor v. United States*, 495 U.S. 575, 599, 110 S.Ct. 2143, 109 L.Ed.2d 607 (1990)). Both Guidelines robbery and Arkansas robbery require the illegal taking to have a force element either before or immediately after committing the theft—the plain meaning of both robbery statutes clearly align.

III.

The district court correctly addressed Hudson’s objection in finding that there was no categorical mismatch between Arkansas robbery and Guidelines robbery. We therefore find that the district court did not err in calculating Mr. Hudson’s total base offense level at 19.

Accordingly, we AFFIRM the district court’s judgment.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: 4:24-CR-140-Y(1)

Justin C. Beck, assistant U.S. attorney

EDDIE HUDSON

Michael A. Lehmann, attorney for the defendant

On July 24, 2024, the defendant, Eddie Hudson, entered a plea of guilty to count one of the one-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(8)	Possession of a Firearm by a Convicted Felon	May 2024	1

The defendant is sentenced as provided in page two through three of this judgment. The sentence is imposed under Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission under Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the one-count indictment.

The defendant shall notify the United States attorney for this district within thirty days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Sentence imposed November 26, 2024.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed November 27, 2024.

IMPRISONMENT

The defendant, Eddie Hudson, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 41 months on count one of the one-count indictment. This sentence shall run consecutively to any future sentence that may be imposed in case no. 1827296 in Criminal Court No. 7, Tarrant County, Texas.

The Court recommends that the defendant be incarcerated at FMC-Fort Worth, Fort Worth, Texas, for treatment of an abdominal hernia, if possible. The Court further recommends that the defendant be enrolled in a GED diploma program.

The defendant is remanded to the custody of the United States marshal.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years on count one of the one-count indictment.

The defendant, while on supervised release, shall comply with the standard conditions recommended by the U. S. Sentencing Commission at §5D1.3(c) of the United States Sentencing Commission Guidelines Manual, and shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the probation officer, as authorized by the Justice for All Act of 2004;

report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Federal Bureau of Prisons;

refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court;

participate in a domestic violence treatment program (i.e. batterer's intervention program and anger management program) as directed by the probation officer until successfully discharged. The defendant shall contribute to the costs of services;

refrain from any unlawful use of a controlled substance, submitting to one drug test within 15 days of placement on probation or release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer pursuant to the mandatory drug testing provision of the 1994 crime bill; and

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

FORFEITURE

Under 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), it is hereby ordered that the defendant's interest in the following property is condemned and forfeited to the United States:

a SCCY, model CPX-1, 9x19mm caliber pistol, bearing serial number C109970; and

an IMEZ, model IJ70-17A, .380 ACP caliber pistol, bearing marking BOP0063

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States marshal

BY _____
deputy marshal