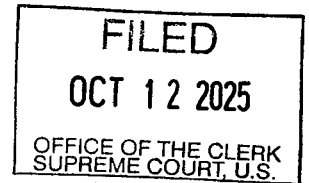


25-7215

ORIGINAL

**IN THE SUPREME COURT OF THE  
UNITED STATES**



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DONALD ANDRE JACOBS,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

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

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**PETITION FOR A WRIT OF CERTIORARI**

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Donald Andre Jacobs

Reg. No. 35074-177

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P.O. Box 4200

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*Donald Andrew Jank*

Pro Se

## **QUESTION PRESENTED**

Whether the Fifth Circuit erred in affirming the imposition of an enhanced sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e), where petitioner's prior burglary convictions arose from offenses committed in the same building over a short time period and were treated as having been committed on "occasions different from one another," in conflict with this Court's decision in *Wooden v. United States*, 595 U.S. 360 (2022), and whether the Fifth Circuit further erred by permitting judicial fact-finding of ACCA predicate "occasions" in violation of the Fifth and Sixth Amendments and this Court's subsequent decision in *United States v. Erlinger*.

# **LIST OF PARTIES**

Petitioner is Donald Andre Jacobs, the defendant below.

Respondent is the United States of America.

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# TABLE OF AUTHORITIES

## Cases

- *Wooden v. United States*, 595 U.S. 360 (2022)
- *Johnson v. United States*, 576 U.S. 591 (2015)
- *Taylor v. United States*, 495 U.S. 575 (1990)

## Statutes

- 18 U.S.C. § 924(e)
- 28 U.S.C. § 1254(1)

# **OPINIONS BELOW**

The opinion of the United States Court of Appeals for the Fifth Circuit affirming Petitioner's Armed Career Criminal Act sentence is unpublished and reproduced in the Appendix.

The judgment and sentencing opinion of the United States District Court for the Northern District of Texas are also reproduced in the Appendix.

# **STATEMENT OF THE BASIS FOR JURISDICTION**

The judgment of the United States Court of Appeals for the Fifth Circuit was entered on October 10, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

# **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

This case involves the interpretation and application of the Armed Career Criminal Act, 18 U.S.C. § 924(e).

Relevant statutory provisions are reproduced in the Appendix.

# STATEMENT OF THE CASE

Petitioner was convicted of being a felon in possession of a firearm under 18 U.S.C. § 922(g). At sentencing, the district court enhanced Petitioner's sentence under the Armed Career Criminal Act ("ACCA"), 18 U.S.C. § 924(e), based on six prior Texas burglary convictions.

Those burglary convictions arose from entries into the same building within a short time frame and resulted in a single state jail sentence. Despite the factual unity of the conduct, the sentencing court treated the burglaries as separate "occasions" under the ACCA.

On appeal and at resentencing, Petitioner argued that under this Court's decision in *Wooden v. United States*, the burglaries constituted a single criminal episode and therefore could not support an ACCA enhancement. The Fifth Circuit rejected that argument and affirmed the enhanced sentence.

This petition follows.

# **REASONS FOR GRANTING THE WRIT**

## **I. The Fifth Circuit's decision conflicts with**

### **Wooden v. United States**

In *Wooden*, this Court held that offenses committed as part of a single criminal episode are not committed on different “occasions” within the meaning of the ACCA. The Court emphasized that the inquiry is holistic and fact-based, focusing on timing, proximity, and the character of the conduct.

Petitioner's prior burglaries involved the same building, occurred within a short temporal window, and were treated as a single episode by the state court. Under *Wooden*, they cannot be transformed into separate “occasions” merely because they were charged in separate counts or indictments.

The Fifth Circuit's decision allows form to override substance and directly undermines *Wooden*'s holding.

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## **II. The Fifth Circuit's approach creates arbitrary and unconstitutional sentencing disparities**

By permitting sentencing courts to rely on charging decisions rather than factual reality, the Fifth Circuit's rule allows identical conduct to result in radically different federal sentences depending on how state prosecutors structure indictments.

This approach defeats Congress's intent and violates the uniformity principles underlying federal sentencing law.

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### **III. This issue is recurring and of exceptional importance**

ACCA enhancements impose a mandatory minimum of fifteen years. Whether prior offenses occurred on different “occasions” is a question that affects thousands of federal defendants nationwide.


This Court’s intervention is necessary to ensure uniform application of *Wooden* and to prevent lower courts from narrowing its holding.

# CONCLUSION

The petition for a writ of certiorari should be granted.

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Respectfully submitted,



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