

NO. ____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2025

ANTHONY CHRISTOPHER DIGGS, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

HECTOR DOPICO

Federal Public Defender

BERNARDO LOPEZ

Assistant Federal Public Defender

Attorney for Petitioner

One E. Broward Boulevard, Suite 1100

Fort Lauderdale, Florida 33301-1842

Telephone No. (954) 356-7436

Bernardo.Lopez@fd.org

QUESTION PRESENTED FOR REVIEW

The Hobbs Act robbery statute makes it illegal to interfere with interstate commerce by threats or violence. 18 U.S.C. § 1951. In *United States v. Taylor*, 596 U.S. 845 (2022), this Court held that, under the categorical approach, a conviction for attempted Hobbs Act robbery under 18 U.S.C. § 1951(a) did not qualify as a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). However, the Court left for another day the question of whether completed Hobbs Act robbery under 18 U.S.C. § 1951(a) qualified as a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). Under the categorical approach, this Court looks to the least culpable conduct under a given statute to determine whether the offense qualifies as a crime of violence under 18 U.S.C. § 924(c).

The Question Presented here is:

Given that a violation of the Hobbs Act robbery statute, 18 U.S.C. § 1951(a), can be committed merely by threatening to take intangible rights such as a stock option, or the right to conduct business, by causing a victim to simply “fear” a financial loss—but not “physical violence”— and such an offense does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another, is completed Hobbs Act robbery a crime of violence, under the categorical approach, for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c)?

INTERESTED PARTIES

Anthony Christopher Diggs, Jr., Petitioner,

United States of America, Respondent.

RELATED CASES

United States District Court (S.D. Fla.):

United States v. Anthony Christopher Diggs, Jr., 23-cr-60138-AHS (S.D.FL)
(July 12, 2024)

United States Court of Appeals (11th Cir.):

United States v. Anthony Christopher Diggs, Jr., No. 24-12374
(December 22, 2025)

TABLE OF CONTENTS

QUESTION PRESENTED FOR REVIEW i
INTERESTED PARTIES ii
TABLE OF AUTHORITIES iv
PETITION FOR WRIT OF CERTIORARI 1
OPINION BELOW..... 2
STATEMENT OF JURISDICTION 2
STATUTORY AND OTHER PROVISIONS INVOLVED 2
STATEMENT OF THE CASE..... 4
REASONS FOR GRANTING THE WRIT 8

Application of the categorical approach, and this Court’s recent decision in *United States v. Taylor*, 596 U.S. 845 (2022), result in a conclusion that completed Hobbs Act robbery does not qualify as a crime of violence for purposes of 18 U.S.C. § 924(c). However, the Eleventh Circuit refuses to budge from a decade-old precedent in which it concluded that Hobbs Act robbery qualified as a crime of violence as part of its denial of a pro se federal inmate’s request to file a second or successive 28 U.S.C. § 2255 motion. Federal defendants in the Eleventh Circuit will continue to be subject to substantial mandatory sentences under 18 U.S.C. § 924(c) even though this Court’s precedent would invalidate those sentences. 8

CONCLUSION..... 15

APPENDIX

Decision of the Eleventh Circuit Court of Appeals,
United States v. Anthony Christopher Diggs, Jr.,
No. 24-12374, (11th Cir. December 22, 2025) A-1

Judgment in a Criminal Case
United States v. Anthony Christopher Diggs, Jr.,
No. 23-cr-60138-AHS, DE 295 (S.D. Fla. July 12, 2024) A-2

-

TABLE OF AUTHORITIES

Cases:

Borden v. United States,

593 U.S. 420 (2021) 11

In re St. Fleur,

824 F.3d 1337 (11th Cir. 2016) 7, 14

Mathis v. United States,

579 U.S. 500 (2016) 11

Shepard v. United States,

544 U.S. 13 (2005) 11

United States v. Bouie,

2025 WL 3707604 (11th Cir. December 22, 2025) 7, 14

United States v. Diggs,

No. 24-12374, 2025 WL 3707604 (Dec. 22, 2025) 1

United States v. Lockett,

810 F.3d 1262 (11th Cir. 2016) 13

United States v. Taylor,

596 U.S. 845 (2022) 5, 8-11, 13-14

United States v. Wiley,

78 F. 4th 1355 (11th Cir. 2023) 5

Statutes And Other Authority:

18 U.S.C. § 924 (2008) 3

18 U.S.C. § 924(c).....	4, 6-15
18 U.S.C. § 924(c)(1)(A)	4
18 U.S.C. § 924(c)(1)(A)(ii).....	13
18 U.S.C. § 924(c)(3)(A)	5, 7, 9-10, 14-15
18 U.S.C. § 1951.....	2, 12
18 U.S.C. § 1951(a)	4, 8-10, 13
18 U.S.C. § 1951(b)	5
18 U.S.C. § 3742.....	2, 6
18 U.S.C. 3742(b)	5
28 U.S.C. § 1254(1)	2
28 U.S.C. § 1291.....	2, 5, 6
28 U.S.C. § 2255.....	7-8, 14-15
Eleventh Circuit Pattern Jury Instruction O70.3.....	12
Part III of the Rules of The Supreme Court of The United States.....	2
Sup. Ct. R. 13.1	2

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2025

No:

ANTHONY CHRISTOPHER DIGGS, JR.,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

Mr. Anthony Christopher Diggs, Jr., respectfully petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit, rendered and entered in case number 24-12374 in that court on December 22, 2025, *United States v. Diggs*, which affirmed the judgment and commitment of the United States District Court for the Southern District of Florida.

OPINION BELOW

A copy of the decision of the United States Court of Appeals for the Eleventh Circuit, which affirmed the judgment and commitment of the United States District Court for the Southern District District of Florida, is contained in the Appendix (A-1).

STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Part III of the RULES OF THE SUPREME COURT OF THE UNITED STATES. The decision of the court of appeals was entered on December 22, 2025. This petition is timely filed pursuant to Sup. Ct. R. 13.1. The district court had jurisdiction because petitioner was charged with violating federal criminal laws. The court of appeals had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742, which provide that courts of appeals shall have jurisdiction for all final decisions of United States district courts.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner intends to rely upon the following federal statutes:

18 U.S.C. § 1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term “robbery” means 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 his taking or obtaining.

18 U.S.C. § 924 (2008). Penalties

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime –

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(c)(1)(C) In the case of a second or subsequent conviction under this subsection, the person shall –

(i) be sentenced to a term of imprisonment of not less than 25 years . . .

(c)(3) For purposes of this subsection, the term “crime of violence” means an offense that is a felony and –

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. . . .

(o) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both . . .

STATEMENT OF THE CASE
COURSE OF PROCEEDINGS AND DISPOSITION
IN THE DISTRICT COURT

On July 13, 2023, a federal grand jury charged Mr. Anthony Christopher Diggs, Jr. with seven counts in a ten-count indictment resulting from a robbery occurring on September 29, 2022, and two robberies on October 4, 2022. Count one charged Mr. Diggs with conspiracy to commit robbery in violation of 18 U.S.C. § 1951(a). The grand jury also charged Mr. Diggs with Hobbs Act robbery in violation of 18 U.S.C. §1951(a) (Count 5) and in Count 6 with using, carrying, and brandishing a firearm during a “crime of violence,” namely, the Hobbs Act robbery in Count 5, in violation of 18 U.S.C. §§924(c)(1)(A), (A)(iii), and 2. Based on a separate robbery, the grand jury charged Mr. Diggs with additional violations of §1951(a) (Counts 7 and 9); and an additional § 924(c) brandishing count (Count 8) predicated on the Count 7 Hobbs Act robbery. (DE 3). Mr. Diggs was charged together with co-defendants Jordan Lewis, Tyrell Bouie and Johntaevious Johnson. (DE 3).

The Motion to Dismiss for Lack of Jurisdiction

On February 14, 2024, Mr. Diggs filed Defendant’s Motion to Dismiss Counts 6 and 8 of the Indictment for Lack of Jurisdiction arguing that completed Hobbs Act Robbery is not a Crime of Violence for Purposes of 18 U.S.C. § 924(c). (DE 134). On April 4, 2024, the district court entered a paperless order denying the Motion to Dismiss for Lack of Jurisdiction as to Counts 6 and 8. In the paperless order the court stated the following:

The United States Court of Appeals for the Eleventh Circuit has spoken to this issue after both cases upon which Defendant relies. In *United States v. Wiley*, 78 F. 4th 1355 (11th Cir. 2023) the Court held: "Because the Supreme Court's analysis in *Taylor* was limited to attempted Hobbs Act robbery, *Wiley* cannot overcome our established precedent holding that aiding and abetting completed Hobbs Act robbery is a crime of violence under § 924(c)(3)(A).

In *Taylor*, the Supreme Court held that attempted Hobbs Act robbery is not a crime of violence under § 924(c)(3)(A). 142 S. Ct. at 2025. The Court distinguished between the completed offense--which requires the government to prove the use, attempted use, or threatened use of force--and an attempt to complete that offense. To obtain a conviction for completed Hobbs Act robbery, the government must prove that the defendant engaged in the unlawful taking or obtaining of personal property from the person of another, against his will, by means of actual or threatened force. *Id.* at 2020 (alteration adopted) (quoting 18 U.S.C. § 1951(b)). By contrast, to obtain a conviction for attempted Hobbs Act robbery, the government need only show that the defendant intended to complete the offense and performed a substantial step toward that end. *Id.* (internal quotation marks omitted). And whatever a substantial step requires, the Court said, 'it does not require the government to prove that the defendant used, attempted to use, or even threatened to use force against another person or his property.'" 78 F. 4th at 1364.

The challenged Counts 6 and 8 here, refer to the conduct in Counts 5 and 7 respectively, both completed crimes of Robbery. The Court is therefore bound by *Wiley*, not *Taylor*. The Motion is DENIED. Signed by Judge Raag Singhal on 4/4/2024.

(DE 200).

On March 21, 2024, Mr. Diggs entered a guilty plea to counts 1, 7 and 8 of the indictment (DE 174) and he entered into a plea agreement with the government. (DE 175). In that plea agreement, Mr. Diggs Jr. waived his right to appeal pursuant to 18 U.S.C. § 3742(b) and 28 U.S.C. § 1291 but he reserved the right to appeal the denial of his Motion to Dismiss Counts 6 and 8 of the Indictment for Lack of Jurisdiction

Because Hobbs Act Robbery is not a Crime of Violence for Purposes of 18 U.S.C. § 924(c)(DE 134). Specifically, the plea agreement states:

“[T]he defendant is aware that 28 United States Code, Section §1291 and Title 18, United States Code, Section 3742 afford the Defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Sections 1291 and 3742 to appeal any sentence imposed...With the exception of the claim that a Hobbs Act Robbery is not a qualifying crime of violence for purposes of 18 U.S.C. 924(c) and thus, counts 6 and 8 of the indictment fail to charge an offense against the laws of the United States and must be dismissed (DE 134), the Defendant further hereby waives all rights conferred by Title 28 United States Code, Section 1291 to assert any claim that (1) the statutes to which the Defendant is pleading guilty are unconstitutional; and/or (2) the admitted conduct does not fall within the scope of the statutes of conviction.”

DE 175:9.

At the sentencing hearing the district court concluded that the base offense level was 24 and with a three-level reduction for acceptance of responsibility, the total offense level was 21 resulting in a sentencing guideline range of 37-46 months for counts one and seven. (DE 324:124). The Court noted that count eight would require an 84-month consecutive sentence. (DE 324:124). The district judge imposed concurrent twenty-four-month terms of imprisonment on counts one and seven and a consecutive eighty-four-month term of imprisonment on count eight for a total sentence of 108 months incarceration. The court also imposed a term of supervised release of five years on count eight and three years on counts one and seven, all terms to run concurrent with each other. (DE 295). After the sentence was pronounced, Mr. Diggs objected and renewed and reasserted the motion to dismiss counts for lack of jurisdiction. (DE 324:166). Thereafter, Mr. Diggs timely filed a notice of appeal on

July 17, 2024. (DE 301). On appeal, Mr. Diggs renewed his argument that completed Hobbs Act robbery did not qualify as a crime of violence under 18 U.S.C. § 924(c). In an unpublished opinion the Eleventh Circuit affirmed Mr. Diggs' convictions and sentences. The Eleventh Circuit relied on a decade-old precedent to reject Mr. Diggs' argument:

We have held that Hobbs Act robbery “clearly” qualifies as a crime of violence under § 924(c)(3)(A)’s elements clause, noting that it “has an element the use, attempted use, or threatened use of physical force against the person or property of another.” *In re St. Fleur*, 824 F.3d 1337, 1340 (11th Cir. 2016).

United States v. Bouie, 2025 WL 3707604 (11th Cir. December 22, 2025). *In re St. Fleur* was the denial of a pro se federal inmate’s request to file a second or successive 28 U.S.C. § 2255 motion. Nevertheless, the Eleventh Circuit has clung to its holding in *In re St. Fleur* to deny all challenges as to whether Hobbs Act robbery qualifies a crime of violence despite a decade of evolution from this Court on the question of what qualifies as a crime of violence for purposes of 18 U.S.C. § 924(c).

REASONS FOR GRANTING THE WRIT

Application of the categorical approach, and this Court’s recent decision in *United States v. Taylor*, 596 U.S. 845 (2022), result in a conclusion that completed Hobbs Act robbery does not qualify as a crime of violence for purposes of 18 U.S.C. § 924(c). However, the Eleventh Circuit refuses to budge from a decade-old precedent in which it concluded that Hobbs Act robbery qualified as a crime of violence as part of its denial of a *pro se* federal inmate’s request to file a second or successive 28 U.S.C. § 2255 motion. Federal defendants in the Eleventh Circuit will continue to be subject to substantial mandatory sentences under 18 U.S.C. § 924(c) even though this Court’s precedent would invalidate those sentences.

In order to determine whether an underlying offense qualifies a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c), this court applies the categorical approach to examine the elements of the underlying offense. The Court then determines whether the offense “has as an element the use, attempted use, or threatened use of physical force against the person or property of another.” That is what this Court did in *United States v. Taylor*, 596 U.S. 845 (2022), where this Court held that, under the categorical approach, a conviction for *attempted* Hobbs Act robbery under 18 U.S.C. § 1951(a) did not qualify as a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). An important part of the categorical approach analysis looks to the least culpable acts which would support a conviction under the offense in question.

Or as this Court noted in *Taylor*, “[t]he only relevant question is whether the federal felony at issue always requires the government to prove – beyond a reasonable doubt, as an element of its case – the use, attempted use, or threatened use of force.” *Taylor*, 596 U.S. at 850. Applying that part of the categorical approach analysis to Hobbs Act robbery under 18 U.S.C. § 1951(a) answers the question left unanswered by this Court in *Taylor*. Specifically, because a violation of the Hobbs Act robbery statute, 18 U.S.C. § 1951(a), can be committed merely by threatening to take intangible rights such as a stock option, or the right to conduct business, by causing a victim to simply “fear” a financial loss—but not “physical violence”—such an offense does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another, completed Hobbs Act robbery does **not** qualify as a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c).

“The Hobbs Act makes it a federal crime to commit, attempt to commit, or conspire to commit a robbery with an interstate component.” *United States v. Taylor*, 596 U.S. 845, 848 (2022) (citing 18 U.S.C. § 1951(a)). A separate federal statute requires a mandatory and consecutive sentence for those who use a firearm in connection with a “crime of violence.” 18 U.S.C. § 924(c). That statute defines a “crime of violence” as an offense that “has an element the use, attempted use, or threatened use of physical force against the person or property of another.” 18 U.S.C. § 924(c)(3)(A). In order to determine whether an offense qualifies as a “crime of violence” under § 924(c)(3)(A), this Court applies a “categorical approach.” *Taylor*,

596 U.S. at 850. In *Taylor*, this Court held that, applying the categorical approach, a conviction for *attempted* Hobbs Act robbery under 18 U.S.C. § 1951(a) did not qualify as a “crime of violence” for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). This Court noted that a conviction for *attempted* Hobbs Act required proof that: 1) the accused had an intent to commit a Hobbs Act robbery; and 2) the accused “completed a ‘substantial step’ toward that end.” *Id.* at 851. The Court then reasoned that proof of a substantial step toward committing the intended robbery did not require proof that the accused used, attempted to use, or threatened to use force. Thus, this Court concluded that “[s]imply put, no element of attempted Hobbs Act robbery requires proof that the defendant used, attempted to use, or threatened to use force.” *Id.* at 852.

However, the Court left for another day the question of whether completed Hobbs Act robbery under 18 U.S.C. § 1951(a) qualified as a crime of violence for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). *See id.* at 852 (“Whatever one might say about *completed* Hobbs Act Robbery, *attempted* Hobbs Act robbery does not satisfy the elements clause.”). This petition now provides this Court with the perfect opportunity to answer that question – does completed Hobbs Act robbery under 18 U.S.C. § 1951(a) qualify as a “crime of violence” for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c). Application of the categorical approach to completed Hobbs Act robbery leads to the conclusion that completed Hobbs Act robbery under 18 U.S.C. § 1951(a) does not

qualify as a “crime of violence” for purposes of a mandatory sentencing enhancement under 18 U.S.C. § 924(c).

Similar to analysis performed in *Taylor*, this Court must apply the categorical approach and examine the elements of Hobbs Act robbery to determine whether completed Hobbs Act robbery “has as an element the use, attempted use, or threatened use of physical force against the person or property of another” as required by section 924(c). Importantly, application of the categorical approach requires the Court to look at the least culpable acts under the statute to determine whether the statute satisfies the elemental requirement for a “crime of violence.” See *Borden v. United States*, 593 U.S. 420, 424 (2021). “The only relevant question is whether the federal felony at issue always requires the government to prove – beyond a reasonable doubt, as an element of its case – the use, attempted use, or threatened use of force.” *Taylor*, 596 U.S. at 850. Pattern jury instructions can assist in determining the elements of a specific offense. See *Mathis v. United States*, 579 U.S. 500, 505 (2016) (citing *Shepard v. United States*, 544 U.S. 13, 26 (2005)).

The Hobbs Act statute provides as follows:

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term “robbery” means 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 his taking or obtaining.

18 U.S.C. § 1951. The elements of Hobbs Act robbery do *not* align with the § 924(c) elements clause for a simple reason: the offense necessarily includes a taking of “intangible” as well as tangible rights, and such a taking may occur by causing or threatening “financial loss” without “physical violence.” That fatal *mismatch* with the elements clause is clear from the Eleventh Circuit’s pattern jury instruction for Hobbs Act robbery. Eleventh Circuit Pattern Jury Instruction O70.3, available at <https://www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormCriminalPatternJuryInstructionsRevisedSEP2025.pdf>. The pattern instruction explains that a defendant can be found guilty of Hobbs Act robbery, only if he:

(1) knowingly acquired someone else’s personal ***property***; and

(2) took the property against the victim’s will, by using actual or threatened force, or violence or causing the victim to ***fear harm***, either immediately or in the future.

The instruction then defines “property” to “include money, tangible things of value, ***and intangible rights that are a source or element of income or wealth***,” and “fear” to mean “a state of anxious concern, alarm, or anticipation of harm. ***It includes the fear of financial loss as well as fear of physical violence.***” *Id.* (emphasis added).

According to this instruction, a defendant’s taking of intangible rights such as a stock option, or the right to conduct business, by causing a victim to simply

“fear” a financial loss—but not “physical violence”—is a recognized means of committing Hobbs Act robbery. Importantly, as this Court made clear in *Taylor*, a defendant need not point to a reported case of prosecution for a non-violent act. If there is no element-to-element match between the alleged “crime of violence” and the elements clause, the alleged “crime of violence” does not qualify as a § 924(c) predicate. And the Eleventh Circuit’s pattern jury instruction on Hobbs Act robbery easily confirms the offense is categorically overbroad § 924(c)’s elements clause. *See United States v. Lockett*, 810 F.3d 1262, 1271 (11th Cir. 2016) (model instructions confirmed jury did not need to agree on any particular means of violating the statute, including the one that matched the elements clause; as such, the conviction was categorically overbroad).

Mr. Diggs was convicted, following a plea of guilty, on one count of conspiracy to commit Hobbs Act robbery in violation of 18 U.S.C. § 1951(a) (count one), one count of Hobbs Act robbery in violation of 18 U.S.C. § 1951(a) (count seven); and one count of brandishing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(ii) count eight. The district court sentenced Mr. Diggs to concurrent twenty-four-month terms of imprisonment as to count one and seven and a mandatory consecutive eighty-four-month term of imprisonment as to count eight. Pursuant to the written plea agreement between Mr. Diggs and the government, Mr. Diggs was allowed to challenge on appeal whether his conviction on Hobbs Act robbery in count seven qualified as a predicate crime of violence to support his

conviction of brandishing a firearm in furtherance of a crime of violence on count eight.

On appeal, the Eleventh Circuit relied on pre-*Taylor* precedent holding that completed Hobbs Act robbery qualified as a crime of violence for purposes of section 924(c):

We have held that Hobbs Act robbery “clearly” qualifies as a crime of violence under § 924(c)(3)(A)’s elements clause, noting that it “has an element the use, attempted use, or threatened use of physical force against the person or property of another.” *In re St. Fleur*, 824 F.3d 1337, 1340 (11th Cir. 2016).

United States v. Bouie, 2025 WL 3707604 (11th Cir. December 22, 2025). It must be noted that *In re Saint Fleur* dealt with the denial of a pro se federal inmate’s second or successive petition under 28 U.S.C. § 2255. Despite the limited pro se briefing in that case and the limited legal question presented in a petition to file a second or second § 2255 petition, the Eleventh Circuit has stubbornly clung to the *In re Saint Fleur* holding for a decade in rejecting any challenges to whether Hobbs Act robbery qualifies a crime of violence for purposes of § 924(c).

This petition requests this Court to apply the categorical approach to resolve the question left open in *Taylor* – whether completed Hobbs Act robbery is a crime of violence for purposes of § 924(c). As demonstrated above, a straight forward application of this Court’s categorical approach leads to the conclusion that Hobbs Act robbery does not qualify as a crime of violence for purposes of § 924(c) because the least culpable conduct that could result in a conviction for completed Hobbs Act

robbery does not have as “an element the use, attempted use, or threatened use of physical force against the person or property of another,” as required by 18 U.S.C. § 924(c)(3)(A). Unfortunately, the pleas of federal defendants in the Eleventh Circuit, whose sentences for Hobbs Act robbery are substantially increased by mandatory consecutive sentences under § 924(c), that Hobbs Act is not categorically a crime of violence fall on deaf ears because of the Eleventh Circuit’s stubborn and rigid adherence to a decade’s old decision that was the result of briefing by a *pro se* federal inmate on the legally limited question of whether he should be allowed to file a second or successive 28 U.S.C. § 2255. And the Eleventh Circuit had made it clear that it will not disturb its faulty precedent unless and until it is forced to do so by this Court.

CONCLUSION

Based upon the foregoing petition, the Court should grant a writ of certiorari to the Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

HECTOR DOPICO
FEDERAL PUBLIC DEFENDER

Fort Lauderdale, Florida
March 20, 2026

By: s / Bernardo Lopez
Bernardo Lopez
Assistant Federal Public Defender
Counsel For Petitioner