No. __________

IN THE

Supreme Court of the United States

WHITFIELD LELAND, III,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPENDIX

JOSEPH F. DEBELDER
FEDERAL PUBLIC DEFENDER

***MEGAN SAILLANT**
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Attorney for Petitioner
* Counsel of Record

NOT FOR PUBLICATION

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-12739
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WHITFIELD LELAND, III,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:24-cr-00044-MW-MAF-1

Before JORDAN, NEWSOM, and BRANCH, Circuit Judges.

PER CURIAM:

Whitfield Leland III appeals his sentence of 264 months' imprisonment for Hobbs Act robbery, brandishing a firearm during a crime of violence, and possessing a firearm as a convicted felon. He maintains that the district court erred in applying an enhancement under the Armed Career Criminal Act. He argues that his 2011 Florida conviction for aggravated assault was improperly considered as a predicate offense, and that without it, he would not qualify for the enhancement. Based on our review of the record and the parties' briefs, we affirm.

I

A

In the early hours of May 20, 2024, Mr. Leland robbed a Dollar General in Tallahassee, Florida. He approached the cash register, brandished a handgun, and ordered the store manager to empty the register. He then demanded that the manager open the store's safe.

Meanwhile, a Dollar General customer saw what was happening and ran out of the back of the store to call 911. Mr. Leland heard the customer flee and ordered another employee at gunpoint to lock the back door. Law enforcement began to surround the store.

Mr. Leland and the store manager disappeared into the back of the store, and unbeknownst to law enforcement, Mr. Leland forced the manager to give up his Dollar General uniform. Now wearing the uniform and pretending to be a Dollar General employee, Mr. Leland exited through the back door without law enforcement detection. But once an employee identified Mr. Leland, he ran.

As Mr. Leland ran, the cash from the register flew out of his pockets. Following the trail of cash, officers found Mr. Leland hiding in some bushes and apprehended him. Later that day, law enforcement spoke with Mr. Leland's cousin, who realized that his Taurus 0.380 caliber handgun—the same gun used in the robbery—had gone missing the day before.

B

A grand jury returned a three-count indictment, charging Mr. Leland with Hobbs Act robbery in violation of 18 U.S.C. § 1951(a) (Count I), brandishing a firearm during a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(ii) (Count II), and possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1) (Count III). Mr. Leland pled guilty to these three counts on the condition that he did not waive any objection to whether his prior convictions qualified as a "violent felony" or "serious drug offense" for the application of the ACCA enhancement. *See* § 924(e). The three previous convictions relevant to this enhancement are as follows: (1) a 1998 Florida conviction for battery on law enforcement officers and resisting an officer with violence, (2) a 2000 Florida conviction for battery on a law enforcement officer and resisting with violence, and (3) a 2011 Florida conviction for aggravated assault with a deadly weapon.

Mr. Leland's criminal history category was VI, and the total offense level was 30. The resulting advisory guideline range was 180 to 215 months on Counts I and III. But Count III carried a 15-year mandatory minimum based on the ACCA enhancement, and

Count II carried a 7-year mandatory minimum that must run consecutively to the sentence imposed for Counts I and III. The district court imposed the mandatory minimum sentence of 264 months' imprisonment.

II

Mr. Leland asserts that the district court erred by considering his 2011 Florida conviction for aggravated assault with a deadly weapon as an ACCA predicate offense. We review *de novo* whether a conviction qualifies as a violent felony under the ACCA. *See United States v. Deshazior*, 882 F.3d 1352, 1354 (11th Cir. 2018).

A

Under ACCA, a defendant is subject to a significant enhancement to his base offense level and a 15-year statutory minimum sentence if he has "three previous convictions" for a "violent felony" or a "serious drug offense" committed on different occasions. *See* 18 U.S.C. § 924(e)(1); U.S.S.G. § 4B1.4(a), (b). An offense constitutes a violent felony if it "has as an element the use, attempted use, or threatened use of physical force against the person of another." § 924(e)(2)(B)(i).

To decide whether an offense satisfies this "elements clause," courts use a categorical approach. *See Borden v. United States*, 593 U.S. 420, 424 (2021). Under this approach, the inquiry is whether a state offense necessarily involves the defendant's "use, attempted use, or threatened use of physical force against the person of another," such that the state offense cannot be committed without satisfying the federal elements clause. *See id.* If any of the least culpable acts criminalized by the state statute do not entail that threshold degree of force, the state statute does not categorically match the federal elements clause (and thus cannot be an ACCA predicate offense). *See id.* A conviction under a state statute criminalizing reckless conduct cannot serve as an ACCA "violent felony" predicate offense. *Id.* at 429.

B

Florida law defines assault as an "intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent." Fla. Stat. § 784.011(1). Aggravated assault is an assault with "a deadly weapon without intent to kill" or an assault with "an intent to commit a felony." § 784.021(1). "The Florida Supreme Court has told us unambiguously that assault under Florida law requires a *mens rea* of at least knowing conduct; it cannot be committed recklessly." *Somers v. United States*, 66 F.4th 890, 896 (11th Cir. 2023) (citing *Somers v. United States*, 355 So. 3d 887, 892 (Fla. 2022)). Consequently, "aggravated assault under Florida law categorically qualifies as a 'violent felony' under the ACCA's elements clause." *Id.* Despite *Somers* post-dating Mr. Leland's 2011 conviction, our determination does not depend on the date of conviction because the Florida Supreme Court told us what the Florida assault statute has "always meant." *Id.* Mr. Leland recognizes that, as a later panel, we are bound by *Somers*, but he nevertheless argues that it was wrongly decided. *See* Br. for Appellant at 10.

The Supreme Court decided *Brown v. United States*, 602 U.S. 101 (2024), just over a year after we issued our decision in *Somers*. In *Brown*, the Supreme Court addressed whether the state and federal drug definitions must match at the time when the state crime is committed to constitute an ACCA "serious drug offense." *See id.* at 108–11. It held that courts must perform a "backward-looking" examination to determine whether the definitions matched at the time of the offense conduct, disregarding any subsequent statutory amendments to the drug schedules. *See id.* at 111–12.

Mr. Leland contends that the application of the Florida Supreme Court's definition of aggravated assault in *Somers* is contrary to the Supreme Court's "backward-looking" approach in *Brown*. But *Brown* is not on point. The Court in *Brown* did not address violent felonies or § 924(e)(2)(B). *See id.* at 105–23. Moreover, *Brown* concerned a legislative amendment, rather than judicial statutory interpretation of a state statute. *See id.* at 105–06. Significantly, the language of Florida's aggravated assault statute has remained unchanged from 2011 through 2025. *Compare* Fla. Stat. §§ 784.011(1), 784.021(1) (2011), *with* §§ 784.011(1), 784.021(1) (2025). Therefore, the Supreme Court's opinion in *Brown* did not undermine or overrule *Somers*.

Our prior panel's holding in *Somers* is binding on us unless and until it is overruled or undermined to the point of abrogation by this Court sitting en banc or by the Supreme Court. *See United States v. Dubois*, 139 F.4th 887, 892 (11th Cir. 2025). Thus, Mr. Leland's argument that his 2011 aggravated assault conviction is not an ACCA predicate offense is foreclosed. The district court did not err in applying the ACCA enhancement.

III

We affirm Mr. Leland's sentence.

AFFIRMED.

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Northern District of Florida

UNITED STATES OF AMERICA v. WHITFIELD LELAND, III	**JUDGMENT IN A CRIMINAL CASE** Case Number: 4:24-cr-00044-001 USM Number: 35749-511 Joseph DeBelder (FPD), Appointed Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One through Three on April 1, 2025

☐ pleaded nolo contendere to count(s) ______
which was accepted by the court.

☐ was found guilty on count(s) ______
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	**Nature of Offense**	**Offense Ended**	**Count**
18 U.S.C. § 1951(a)	Hobbs Act Robbery	May 20, 2024	One
18 U.S.C. § 924(c)(1)(A)(ii)	Brandishing a Firearm During a Crime of Violence	May 20, 2024	Two
18 U.S.C. §§ 922(g)(1) and 924(e)	Felon in Possession of a Firearm	May 20, 2024	Three

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) ______

☐ Count(s) ______ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 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. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

7/24/2025
Date of Imposition of Judgment

s/Mark E. Walker
Signature of Judge

Mark E. Walker, United States District Judge
Name and Title of Judge

7/30/2025
Date

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
One hundred eighty (180) months as to Counts One & Three, to be served concurrently with each other and eighty-four (84) months as to Count Two, to be served consecutively to the sentence imposed for Counts One & Three, for a total of two hundred sixty-four (264) months imprisonment.

☒ The court makes the following recommendations to the Bureau of Prisons:
1. BOP designation as near as possible to Marianna, Florida.
2. BOP designation as near as possible to Tallahassee, Florida.
3. Defendant be incarcerated at a facility with a UNICOR program.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to his/her closest Bureau of Prisons facility to the Tallahassee U.S. District Courthouse:

☐ at ____________ ☐ a.m. ☐ p.m. on ____________ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 12 p.m. on ____________ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:
Five (5) years as to Counts Two & Three and three (3) years as to Count One, all to be served concurrently with each other.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You 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.
   - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (check if applicable)
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature ______________________________ Date ______________

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

SPECIAL CONDITIONS OF SUPERVISION

1. You will be evaluated for substance abuse treatment consisting of an initial evaluation by a probation officer or outside provider. You shall comply with, and successfully complete, any recommended treatment to include inpatient or outpatient treatment and cognitive behavioral therapy. If residential substance abuse treatment is deemed appropriate by the treatment provider, you shall successfully complete a program as recommended by the treatment provider and probation officer. Should a contracted vendor provide this service, the United States Probation Office will pay for up to the first 90 days of inpatient treatment, after which time the defendant will be responsible for the cost only to the extent required by a fee schedule or policy adopted by the facility for patients generally. Upon completion of the inpatient program, you shall follow the recommendations of the treatment provider/probation officer regarding aftercare services. You will be tested for the presence of illegal controlled substances and alcohol at any time during the term of supervision.
2. You will be evaluated for mental health treatment and comply with any recommended treatment, which may include cognitive behavioral therapy, psychiatric care, and medication monitoring.
3. You must provide the probation officer all requested financial information, both business and personal.
4. You must not transfer or dispose of any asset, or interest in any asset, without the prior approval of the supervising probation officer unless you have satisfied all financial obligations.
5. You must not incur new credit charges or open additional lines of credit without the approval of the probation officer unless you have satisfied all financial obligations.
6. You must make monthly payments in the amount of not less than $50 per month towards any unpaid restitution, fines, and/or assessments. Payments shall begin within 60 days of your release from imprisonment (or within 60 days of imposition of this sentence). You must notify the United States Attorney's Office if there are any changes in your financial situation which significantly impacts your ability to pay restitution.
7. You must cooperate with the probation department and/or the appropriate state agency in the establishment and enforcement of child support payments and must make all required child support payments, if applicable.
8. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 300.00	$ 719.00	$ 0.00	$	$

☐ The determination of restitution is deferred until __________. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
Dollar General	$689.00	$689.00	
J. O'Neal	$30.00	$30.00	
c/o U.S. District Court Attn: Financial Section 111 N Adams Street, Suite 322 Tallahassee, FL 32301			
TOTALS	$ 719.00	$ 719.00	

☐ Restitution amount ordered pursuant to plea agreement $ ____________________

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for ☐ fine ☒ restitution.

☐ the interest requirement for ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 6 — Schedule of Payments

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payment of $ 1,019.00 due immediately, balance due

☐ not later than ____________ , or
☐ in accordance with ☐ C ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐C, ☐ D, or ☐ F below); or

C ☐ Payment in equal ________ *(e.g., weekly, monthly, quarterly)* installments of $ ________ over a period of ________ *(e.g., months or years)*, to commence ________ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal ________ *(e.g., weekly, monthly, quarterly)* installments of $ ________ over a period of ________ *(e.g., months or years)*, to commence ________ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within ________ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:

$719 is due and payable in full immediately. The defendant shall pay a minimum of $50 per month to commence 60 days after release from imprisonment.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
TAURUS INTERNATIONAL PT738 TCP PISTOL CAL: 380 SN: 25716A;
1 Round PMC Ammunition CAL: 380, and
$689.00 in U.S. Currency

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

DEFENDANT: WHITFIELD LELAND, III
CASE NUMBER: 4:24-cr-00044-001

DENIAL OF FEDERAL BENEFITS

(For Offenses Committed On or After November 18, 1988)

FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 862(a)

IT IS ORDERED that the defendant shall be:

☐ ineligible for all federal benefits for a period of ______________ .

☐ ineligible for the following federal benefits for a period of ______________ .

(specify benefit(s))

OR

☐ Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 862(b)

IT IS ORDERED that the defendant shall:

☐ be ineligible for all federal benefits for a period of ______________ .

☐ be ineligible for the following federal benefits for a period of ______________ .

(specify benefit(s))

☐ successfully complete a drug testing and treatment program.

☐ perform community service, as specified in the probation and supervised release portion of this judgment.

☐ Having determined that this is the defendant's second or subsequent conviction for possession of a controlled substance, IT IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 862(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, Veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The clerk of court is responsible for sending a copy of this page and the first page of this judgment to:

U.S. Department of Justice, Office of Justice Programs, Washington, DC 20531