

No. _____

In the Supreme Court of the United States

DARRELL WYLIE, PETITIONER

v.

UNITED STATES OF AMERICA

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether 18 U.S.C. § 1951(b)(1)'s requirement that a Hobbs Act robbery be committed "by means of" force or threat of force is satisfied by a completed peaceful taking of property *followed* by a threat of force.

PARTIES TO THE PROCEEDING

Petitioner Darrell Wylie was the defendant in the district court and appellant below.

Respondent United States of America was the plaintiff in the district court and appellee below.

RELATED PROCEEDINGS

United States District Court (E.D. Pa.):

United States v. Wylie, No. 2:17-cr-00617 (Apr. 19, 2022)

United States Court of Appeals (3d Cir.):

United States v. Wylie, No. 22-1714 (Dec. 18, 2025)

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The Hobbs Act, 18 U.S.C. § 1951(a), in part prohibits “robbery” which affects commerce. Congress did not leave the term “robbery” in the Hobbs Act to an ordinary-meaning gloss; rather it expressly defined the term to require a taking of property “*by means of* actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property.” § 1951(b)(1) (emphasis added). Mr. Wylie argued that the plain text of the Hobbs Act robbery statute requires the taking must be by force or threat of force; a peaceful taking followed by force or threatened force does not satisfy that requirement. The Third Circuit disagreed, holding that a peaceful taking, accomplished by deception, constitutes robbery even though force or threatened force is only used *after* the taking is complete.

At least the Tenth and Eleventh Circuits disagree. In a published opinion decided after *Wylie*, the Eleventh Circuit held that “a taking of property does not

constitute robbery under the Hobbs Act unless force or threatened force is used *before or during the taking.*” *United States v. Grable*, 162 F.4th 1321, 1322 (11th Cir. 2026) (emphasis added); see *United States v. Smith*, 156 F.3d 1046, 1055-56 (10th Cir. 1998).

This Court should grant certiorari to eliminate this unambiguous circuit conflict on a question of statutory interpretation.

OPINION BELOW

The opinion of the court of appeals (App., *infra*, 1a-13a) is unreported at 2025 WL 3674711. The order of the court of appeals denying panel rehearing and rehearing en banc (App., *infra*, 16a-17a) is also unreported.

JURISDICTION

The judgment of the court of appeals was entered on December 18, 2025. (App., *infra*, 14a-15a). On April 23, 2026, the court of appeals denied a petition for rehearing en banc. (App., *infra*, 16a-17a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Section 1951 of Title 18 of the United States Code provides in pertinent part:

(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 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.

18 U.S.C. § 1951(a). The statute defines robbery as used in this section as follows:

(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 the taking or obtaining.

18 U.S.C. § 1951(b)(1).

STATEMENT OF THE CASE

1. This case arises from a failed sting operation involving a cooperating informant and Appellant Darrell Wylie. In 2013, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) recruited a cooperating informant—an individual who was incarcerated at the time—to assist in the controlled purchase of firearms in Philadelphia, Pennsylvania. C.A. App. 245-250. In 2017, the informant arranged to buy firearms from his friends Namir White and Appellant Darrell Wylie. C.A. App. 576-578.

2. As planned, the cooperating informant entered a car with Mr. White and Mr. Wylie and willingly handed Mr. White the money (which had secretly been provided by ATF). C.A. App. 624-625, 689-690. Mr. Wylie then gave the informant a container, which the cooperating informant opened; he saw that it contained a piece of metal instead of firearms. C.A. App. 653, 567, 690-691. After Mr. Wylie expressed surprise and appeared to make two unanswered phone calls, Mr. Wylie repeatedly told the cooperating informant that the transaction was over and he was not getting the cash back. C.A. App. 611, 627-629, 653, 690-693. The informant nonetheless

remained in the car. C.A. App. 611, 653. Eventually, Mr. Wylie told the informant to get out of the car and threatened him with a firearm. C.A. App. 658, 697; *see* App. 3a.

3. The government charged this episode as Hobbs Act robbery, among other charges.¹ The Hobbs Act makes it a federal crime to obstruct, delay, or affect commerce “by robbery.” 18 U.S.C. § 1951(a). Robbery is defined as “the unlawful taking or obtaining of personal property” from a person “against his will, by means of actual or threatened force, or violence, or fear of injury.” 18 U.S.C. § 1951(b)(1).

4. After a jury trial, Mr. Wylie was convicted of all counts. D. Ct. Doc. No. 138. The district court sentenced Mr. Wylie for the Hobbs Act robbery and related counts to an aggregate term of 204 months incarceration and to three years supervised release. D. Ct. Doc. No. 236.

5. Mr. Wylie argued in his pro se brief on appeal that obtaining money by deception and subsequently making a threat is insufficient to constitute “robbery” under the Hobbs Act. Doc. No. 46 (Wylie Br.) at 4-5. In its response brief, the government addressed Mr. Wylie’s argument on the merits. *See* Doc. No. 51 (U.S. Br.) at 32-34.

6. After the parties filed their briefs, the Panel sua sponte appointed the Federal Public Defender for the Western District of Pennsylvania to serve as amicus curiae on behalf of Mr. Wylie. Doc. No. 59. The Panel directed amicus curiae to

¹ Mr. Wylie was also charged with and convicted of carrying a firearm during a crime of violence, 18 U.S.C. § 924(c), theft of government property, 18 U.S.C. § 641, possession with intent, 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), and unlawful firearms possession, 18 U.S.C. § 922(g)(1).

address the following issue raised by Mr. Wylie's brief: "Whether 18 U.S.C. § 1951(b)(1)'s requirement that a Hobbs Act robbery be committed 'by means of actual or threatened force, or violence, or fear of injury' is satisfied when an individual first threatens to use force only *after* the individual has peacefully taken possession of the property at issue in the charge." Doc. No. 59.

7. As directed, amicus curiae filed a brief explaining that Mr. Wylie's conduct does not satisfy the definition of "robbery" in the Hobbs Act. Doc. No. 64 (Amicus Br.) at 12-26. That definition requires a "taking" of property "by means of" force or a threat of force. By its plain meaning, that language signifies that the threat of force must be before or during the taking. *See id.* at 14-22. Here, however, by the time Mr. Wylie threatened the cooperating informant—while telling him to leave the car—the "taking" of the money had already occurred. *See id.* at 23-25.

8. The government filed a supplemental response brief, arguing for the first time that Mr. Wylie's Hobbs Act robbery argument had not been preserved in district court and could be reviewed only for plain error. Doc. No. 71 (U.S. Supp Br.) at 6-8. *But see* Doc. No. 101 at 7-11 (petition for rehearing citing Supreme Court authority for the proposition that the argument was preserved and Third Circuit and other circuit authority excusing forfeiture where the government did not mention forfeiture in its response brief). The Panel agreed and issued an unpublished opinion rejecting Mr. Wylie's argument under the plain error standard. App. 10a-12a. After discussing the "ordinary meaning" of the word "robbery" from a case involving 18

U.S.C. § 924(c) and the definition of robbery in the Model Penal Code, the Panel reasoned that “[i]t would be logical (or at least subject to reasonable dispute) to apply the same principles to Hobbs Act robbery.” App. 11a-12a. “And doing so would mean Wylie’s crime did not conclude until . . . after he threatened the [cooperating informant] with a gun.” App. 12a. The Panel concluded that “absent clear authority supporting [Mr.] Wylie’s position, any error was not plain.” App. 12a.

9. The court of appeals affirmed Mr. Wylie’s conviction and sentence. App. 13a.

10. Mr. Wylie filed a petition for panel rehearing and rehearing en banc, arguing that the court of appeals decision was incorrect under any standard of review and squarely conflicted with other circuit court authority. The court of appeals denied the petition. App., *infra*, 16a-17a.

REASONS FOR GRANTING THE PETITION

A. The decision below is wrong: The Hobbs Act’s definition of “robbery” excludes a peaceful taking followed by a threat of force.

The statutory text and history confirm that Mr. Wylie’s conduct—that is, a completed taking of property *followed by* a threat—does not amount to “robbery” as defined by the Hobbs Act. The Hobbs Act criminalizes, among other things, affecting commerce “by robbery.” 18 U.S.C § 1951(a). Congress expressly defines “robbery” under the Hobbs Act as:

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
. . . .

18 U.S.C. § 1951(b)(1). Accordingly, by its text, Hobbs Act robbery requires an “unlawful taking” of property against the will of another person that is accomplished “by means of actual or threatened force, or violence, or fear of injury.” *Id.* Under the ordinary meaning of that statutory language, a “taking” that is accomplished peacefully, as by deceit, or surreptitiously—and only later followed by a threat of force—is not a taking “by means of” that threat.

A taking is complete once a person is in possession of, or has control over, the property at issue. Dictionaries define “taking,” for example, as “[t]he act of laying hold upon an article” in a way that “implies a transfer of possession, dominion, or control.” *Black’s Law Dictionary* (4th rev. ed. 1968); *see also Webster’s Third International Dictionary* (1986) (defining “take” as “to get into one’s hands or into one’s possession, power, or control by force or stratagem”). To satisfy the definition Hobbs Act robbery, the taking must occur “*by means of*” of actual or threatened force. The phrase “by means of” signifies a close causal connection between the “taking” and the force or threat of force; the connection must be “something more” than “indirect” or “incidental.” *Loughrin v. United States*, 573 U.S. 351, 362-63 (2014) (addressing 18 U.S.C. § 1344(2)’s requirement that bank property be obtained “by means of false or fraudulent pretenses...” and citing dictionary definitions of “by means of”); *see also Martinez-Rodriguez v. Giles*, 31 F.4th 1139, 1155 (9th Cir. 2022) (“by means of refers to familiar principles of causation and requires a proximate causal link”); *American Heritage Dictionary of the English Language* (1969) (defining “by” as

“With the use of; through”). This Court has construed the phrase “by means of” as a “significant *textual* limit” on a statute’s reach. *See Loughrin*, 573 U.S. at 362.

Accordingly, the statutory definition of Hobbs Act robbery—a “taking . . . by means of . . . threatened force”—unambiguously requires an act of taking possession of property that is *caused by* a threat of force. 18 U.S.C. § 1951(b)(1). It is not enough that there is a taking and that force is threatened or used; the force or threat must be the mechanism by which the taking is accomplished or attempted. *See Loughrin*, 573 U.S. at 365. If the transfer of property happens peacefully, such as by deception, there has been no “taking . . . by means of . . . threatened force.” And, thus, there has been no Hobbs Act robbery. That conclusion remains even if the individual who took the property later threatened force, only after taking the property. In such a circumstance, under the plain language of the statute, the “taking” was complete when the property transferred possession, and the threat of force was not the “means of” accomplishing that taking.

B. The Courts of Appeals are divided over whether Hobbs Act robbery requires force or threats before or during the taking to constitute robbery, or whether force or threats used only after a completed taking can satisfy the statute.

The Courts of Appeals are divided over whether Hobbs Act robbery requires force or threats before or during the taking to constitute robbery, or whether force or threats used only after a completed taking can satisfy the statute. This Court’s intervention is needed to resolve the conflict and define the limits of federal criminal liability under the Hobbs Act.

The Eleventh Circuit most recently issued an opinion correctly interpreting Hobbs Act robbery to exclude a taking that is *followed by* force. In *United States v. Grable*, the Eleventh Circuit held that “a taking of property does not constitute robbery under the Hobbs Act unless force or threatened force is used before or during the taking.” 162 F.4th 1321, 1322 (2026). Relying on the “by means of” language in the Hobbs Act’s definition of “robbery,” and this Court’s construction of that statutory phrase in *Loughrin*, the *Grable* Court explained, “for a taking of property to constitute a Hobbs Act robbery under §§ 1951(a) and 1951(b)(1), the theft must have been achieved, at least in part, through the use of actual or threatened force.” *Id.* at 1326-27. Accordingly, the Court held that the defendant in *Grable* did not commit Hobbs Act robbery because he used force “only after” his co-conspirator had surreptitiously taken marijuana from an apartment. *Id.* at 1327.

The Tenth Circuit consistently recognizes that because Hobbs Act robbery requires a taking of property “*by means of* actual or threatened force,” force used after a taking during an escape attempt would not transform a theft into a robbery under the Hobbs Act. *United States v. Smith*, 156 F.3d 1046, 1055-56 (10th Cir. 1998). *See also United States v. Smith*, 141 F. App’x 83, 86-87 (4th Cir. 2005) (while not explicitly holding that the use or threat of force subsequent to the taking cannot constitute Hobbs Act robbery, the court held that the trial court did not abuse its discretion in failing to provide an instruction to that effect because the defendant admitted using force *during* the taking).

By contrast, the Third Circuit below reached the contrary result, holding that a completed taking of property *followed by* a threat does amount to “robbery” within the meaning of the Hobbs Act. Rather than analyzing the text of the Hobbs Act’s definition of “robbery,” the Third Circuit looked to “the ordinary meaning of the word ‘robbery.’” App. 11a. That was error. Congress did not “simply punish[] ‘robbery’”—thereby leaving the definition of “robbery” to the common law or ordinary meaning—but instead “followed the more prevalent legislative practice of spelling out the elements” of robbery. *Carter v. United States*, 530 U.S. 255, 267 n.5 (2000).

As this Court explains, “[s]tatutory definitions control the meaning of statutory words[.]” *Burgess v. United States*, 553 U.S. 124, 129-30 (2008) (citation omitted). “When a statute includes an explicit definition, [courts] must follow that definition,” even if it varies from a term’s ordinary meaning. *Id.*, 553 U.S. at 130 (internal quotation marks and citation omitted). Thus, the purported ordinary meaning of the word “robbery” “has no bearing on” the meaning robbery as explicitly defined in the Hobbs Act. *Carter*, 553 U.S. at 267.

Ignoring the express definition of “robbery” in § 1951(b)(1), the Third Circuit also looked to the Model Penal Code definition of robbery. App. 12a. The Model Penal Code adopted a continuing offense theory of robbery by including language the Hobbs Act does not contain—that is, “[a]n act shall be deemed ‘in the course of committing a theft’ if it occurs in an attempt to commit theft or in flight after the attempt or commission.” App. 12a (quoting Model Penal Code § 222.1(1) (2002)). Applying the

MPC definition, the Third Circuit concluded that Wylie's conduct in threatening force *after* the taking was complete satisfied Hobbs Act robbery. App. 12a.

The absence of that “in the course of” language from the Hobbs Act's definition of “robbery,” however, indicates that the Hobbs Act does not embrace the modern theory of robbery that the Model Penal Code later adopted. The Third Circuit's analysis—based on a purported ordinary understanding of “robbery” untethered from its definition and a model statute with dissimilar language—is “at war with the text of the statute.” *Carter*, 530 U.S. at 272.

“It is a settled principle of interpretation that, absent other indication, ‘Congress intends to incorporate the well-settled meaning of the common-law terms it uses.’” *Sekhar v. United States*, 570 U.S. 729, 732 (2013) (looking to common law to ascertain the meaning of the term “extortion” in the Hobbs Act) (quoting *Neder v. United States*, 527 U.S. 1, 23 (1999)); *Grable*, 162 F.4th at 1327-28. When the Hobbs Act statute was enacted in 1946, robbery was defined at common law to mean “the felonious taking of property from the person of another by violence or by putting him in fear. . . . The violence or putting in fear must be at the time of the act or immediately preceding it.” *Grable*, 162 F.4th at 1328 (internal citation omitted). Common law robbery excluded force used after a taking was complete as to escape or prevent pursuit. Model Penal Code 222.1, Part II Commentaries, cmt. 2(b) at 104-05 & nn.23-24 (explaining that common law and prior law was “narrower than the Model Penal Code . . . and did not include force during the flight within the offense of robbery”). “[W]ithout prior or contemporaneous ‘violence or threats,’ the act would

simply be a theft or larceny and not a robbery. In other words, force used only after the taking, such as to retain property or to facilitate an escape, did not make a larceny a common law robbery.” *Grable*, 162 F.4th at 1328 (citations omitted).

The Model Penal Code—enacted 16 years after the Hobbs Act—endorsed a shift away from the common-law understanding of robbery to a modern view that captures force used *after* the theft is committed. See Model Penal Code § 222.1, Explanatory Note, at 145 (1985) (explaining that the Model Penal Code formulation “represents a broader conception of the offense than previously existed in many states.”); *id.* cmt. 2(b), at 104 (“Prior law was in general narrower than the Model Code on this point and did not include force during flight within the offense of robbery. [Those] [s]tatutes ... were most likely to be interpreted to exclude flight after the taking.”).

The Eleventh Circuit, unlike the Third Circuit, correctly refused to rely on the Model Penal Code’s definition of robbery. As *Grable* recognized, the Model Penal Code adopts the “modern understanding of robbery” that was “not the prevalent view in 1946, when Congress enacted the Hobbs Act.” See *Grable*, 162 F.4th at 1329. Thus, the Model Penal Code reflects a later departure from—not the settled meaning of—the common-law term “robbery” that Congress used when it enacted the Hobbs Act.

Relying on statutory text and history, the Eleventh Circuit rejected the government’s argument that a Hobbs Act robbery had occurred because, at the time the defendant used force, the defendant “personally had not gotten his hands on the marijuana” that his co-conspirator had taken. *Grable*, 162 F.4th at 1327. Consistent

with the text of the Hobbs Act, the Court relied on the common-law rule that “larceny is complete when the owner of the property is deprived of its possession.” *Id.*; *see id.* at 1328 (“[t]he crime of robbery [was] complete as soon as the robber unlawfully and by means of force or fear gain[ed] possession of the movable property of another in the presence of its lawful custodian and reduce[d] it to his manual possession” (quoting 2 Ronald A. Anderson, *Wharton’s Criminal Law & Procedure* § 553 (1957))). “In other words, force used only after the taking, such as to retain property or to facilitate an escape, did not make a larceny a common law robbery.” *Grable*, 162 F.4th at 1328.

In sum, statutory text and history illustrate that the Hobbs Act’s definition of “robbery” does not encompass a threat of force that occurs only after a taking. The decision below cannot be squared with that text and history and conflicts with the decisions of other circuits.

C. The question presented is important and warrants review in this case.

This case presents a clear split of authority over an important question of statutory construction with significant consequences for the petitioner. The question extends beyond prosecutions under 18 U.S.C. § 1951(b). The Sentencing Guidelines, for example, likewise define robbery as an “unlawful taking . . . *by means of* actual or threatened force, or violence. . . .” U.S.S.G. § 4B1.2(e)(3) (emphasis added). The Court’s resolution of the scope of the federal robbery statute therefore has implications for application of the Guidelines as well as the Hobbs Act. This case presents a clean vehicle for resolving the conflict.

The Supreme Court has recognized that criminal law traditionally falls within the States' police powers and has cautioned against construing federal criminal statutes to displace that traditional state authority absent a clear indication from Congress. *See Jones v. United States*, 529 U.S. 848, 857-58 (2000). That concern is especially acute in the Hobbs Act context. As Justice Thomas explained in his dissent in *Taylor v. United States*, “[t]he Commerce Clause” “does not authorize Congress to punish robbery” and “[r]obbery is not ‘Commerce’ under that Clause.” 579 U.S. at 312-13 (2016) (Thomas, J., dissenting). An expansive interpretation of the Hobbs Act thus risks extending federal criminal jurisdiction into an area traditionally left to the States. *Id.*, at 314-22 (Thomas, J., dissenting).

These federalism concerns reinforce the need to adhere to Congress's express definition of Hobbs Act robbery. Section 1951(b)(1) does not federalize every theft accompanied at some point by force. Rather, Congress made a particular kind of taking—one accomplished “by means of” force or threats of force—federal Hobbs Act robbery when it affects interstate commerce. Where the taking is complete *before* the force occurs, treating subsequent force as sufficient would expand the class of takings that qualify as federal Hobbs Act robberies without a clear textual basis. The Third Circuit's expansive interpretation of the “significant *textual* limit” imposed by the phrase “by means of,” *see Loughrin*, 573 U.S. at 362, encompasses thefts in which force was not the mechanism of the taking, thereby expanding federal criminal jurisdiction beyond the conduct Congress made criminal.

This Court has repeatedly rejected expansive statutory interpretations of federal criminal statutes that would extend federal criminal liability beyond the conduct Congress made criminal. *See, e.g., Kelly v. United States*, 590 U.S. 391, 393 (2020) (reversing federal wire fraud and program fraud convictions even though “[t]he evidence the jury heard no doubt shows wrongdoing,” because “the federal fraud statutes at issue do not criminalize all such conduct”); *McDonnell v. United States*, 579 U.S. 550, 576-81 (2016) (rejecting the government’s “boundless interpretation” of the “official act” element of the federal bribery statute in part because that interpretation raised constitutional and federalism concerns and a more limited interpretation was supported by text and precedent); *Yates v. United States*, 574 U.S. 528, 547-48 (2015) (rejecting expansive interpretation of “tangible object” in the federal records tampering statute). That same principle applies here.

This case presents a clean vehicle for resolving the conflict among the Courts of Appeals and an important question concerning the scope of federal criminal liability. The Court should grant the petition for certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

A handwritten signature in blue ink, reading "Elisa A. Long".

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