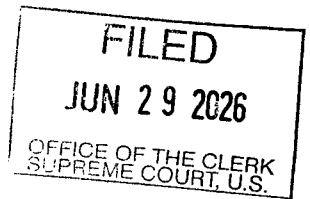


26-5667 ORIGINAL
No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

Adam Eugene Martin — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fifth Circuit Court of Appeals - USCA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Adam Eugene Martin #39706-180
(Your Name)

USP-Terre Haute, P.O. Box 33
(Address)

Terre Haute, IN. 47808
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1). Can the Fifth Circuit Court of Appeals use a non-dangerous felony that the Ninth Circuit Court of Appeals ruled upon in 2008 as not meeting the Model Penal Code as to Arizona Agg. Assault A.R.S. 13-1203 being non-violent, and later dismissed, use said non-violent prior as a predicate offense for an 18 USC 3559(c)(2) "strike"? * (Rule 10(a)) violation *
- 2). Can the Fifth Circuit Court of Appeals overrule a Ninth Circuit District Court Judge, and U.S. Attorney who conceded that Petitioner's two (2) prior Oklahoma bank robberies were consolidated in 1988? * (Rule 10(a)) violation *
- 3). If prior Fifth Circuit Court of Appeals case law is abrogated by the State of Texas Supreme Court ruling that Texas Robbery is "non-violent", can it be used as a predicate "violent" offense to reach an 18 USC 3559(c)(2) "strike"? * (Rule 10(b)) violation *

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Fifth Circuit Court of Appeals
600 S. Maestri Place
New Orleans, LA. 70130

Solicitor General of the United States
950 PENNSYLVANIA AVE. NW Room 5616
Washington, D.C. 20530-0001

Adam Eugene Martin 39706-180
USP - Terre Haute
P.O. Box 33
Terre Haute, IN. 47808

RELATED CASES

USCA - Fifth Circuit No. 25-51042, In re: Adam Martin

USDC - Western District of Texas, No. 03-CR-250-SS, Austin Division

USA v. Martin 431 F.3d 846 (5th Cir. 2005)

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<u>United States v. Welch</u> 578 U.S. 120	4, 5
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<u>Martin v. UNKNOWN Party</u> 2019 U.S. Dist. Lexis 13739 (Dist. AZ)	4, 5
<u>United States v. Esparza-Herrera</u> 557 F.3d 1619 (9th Cir 2008)	4, 5
<u>United States v. Ocampo-Cruz</u> 561 Fed. Appx. 361 (5th Cir 2014)	4, 5

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 10, 2026.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: June 12, 2026, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Constitutional and Statutory Provisions Involved

1). USCA - Amendment V

The Fifth Amendment to the United States Constitution provides in relevant part: "No person shall be... deprived of Life, Liberty, or Property, without due process of law."

2). USCA - Amendment X

The Tenth Amendment to the United States Constitution provides in relevant part: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively..."

3). 18 USC 3559(c)

Section 3559(c) of Title 18 United States Code provides in relevant part: (c) Imprisonment of Certain Violent Felons - (1) Mandatory life imprisonment -

Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if -

(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of -

Constitutional and Statutory Provisions Involved (cont.)

(i) 2 or more serious violent felonies...

4). Texas Penal Code § 29.02 - Robbery

5). Arizona Revised Statute § 13-1203; 13-1204 Agg. Assault

6). 18 USC 2113

STATEMENT OF THE CASE

In December, 2025 Petitioner Filed for a 2nd or Successive 28 USC 2255 alleging that pursuant to the retroactive Supreme Court cases of Johnson v. United States 576 U.S. 591; and Welch v. United States 578 U.S. 120, 130 (preserved by Petitioner in his previous filings) the case of Floyd v. Texas 2024 Tex. Crim. App. Lexis 922; 2024 WL 4757855 abrogated 5th Circuit precedent of United States v. Garrett 24 F.4th 485, 486 (5th Cir 2022) as to State of Texas - Robbery 29.02 (a), as not being divisible, with Floyd being recognized by the 5th Circuit in United States v. Rose 127 F.4th 619 (5th Cir. 2025), Petitioner stated that he no longer had the predicate violent offenses for a life sentence under 18 USC 3559(c).

Petitioner stated his 1983 Texas Robbery no longer counted as a predicate offense; his 1988 USDC-Western District of Oklahoma bank Robberies were consolidated by Martin v. Unknown Party 2019 US Dist Lexis 13739 (Dist. AZ) Footnote 1; Govt. concedes only one predicate; and the 1988 Arizona Agg. Assault no longer counted due to a mens rea of "recklessness".

The 5th Circuit panel stated the 1988 Arizona Agg. Assault was a violent predicate offense on April 10, 2026 and sanctioned Petitioner \$100.00 for Filing a 2nd and Successive 2255.

Petitioner filed to recall the mandate because the 1988 Arizona Agg. Assault was dismissed according to his 2021 PSR, (and it could not count under United States v. Esparza-Herrera 557 F.3d 1019 (9th Cir 2008); and the 5th Circuit panel quoting Esparza-Herrera in United States v. Ocampo-Cruz 561 Fed. Appx. 361 (5th Cir. 2014); the recall mandate was denied June 12, 2026.

REASONS FOR GRANTING THE PETITION

Petitioner only has one (1) predicate offense, namely the 1988 USDC Western District of Oklahoma consolidated bank robbery, Consolidated by Martin v. Unknown Party 2019 US Dist Lexis 13739 (Dist. AZ) where the Govt. conceded the consolidation of the 1988 Oklahoma bank robberies, (the Govt. also conceded the 1988 Arizona Agg. Assault was not a predicate offense). The 1983 Texas Robbery is not a predicate offense as Floyd v. Texas 2024 Tex. Crim. App. Lexis 922 abrogated 5th Circuit precedent of United States v. Garrett 24 F.4th 485 (5th Cir. 2022) recognized by the 5th Circuit in United States v. Rose 127 F.4th 619 (5th Cir. 2025). The 1988 Arizona Agg. Assault was dismissed according to Petitioner's 1021 PSR, and in the alternative cannot count as a predicate offense under 5th Circuit panel in United States v. Camp-Cruz 561 Fed. Appx. 361 (5th Cir. 2014) quoting the 9th Circuit in United States v. Espanza-Herrera 557 F3d 1019 (9th Cir. 2008) the Arizona Agg. Assault under 13-1203 was not a violent predicate offense.

Petitioner avers Johnson v. United States 576 U.S. 591 is retroactive, as per United States v. Welch 578 U.S. 120, 130, and was preserved by Petitioner as to his prior felony convictions were not predicate offenses to reach as 18 USC 3559(c)(1), (2) Life sentence, as Petitioner now suffers adverse collateral consequences of an unlawful 18 USC 3559(c) Life sentence, due to the 5th Circuit panel decision relying on "Non-predicate" offense prior felonies, as one 3 Judge panel cannot overturn a previous 3 Judge Panel due to comity.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Adam Eugene Niz

Date: 8-24-2026