

No. 26-5679

In the
Supreme Court of the United States

Ramon Aponte,

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari to
The United States Court of Appeals
For the Second Circuit

SECOND SUPPLEMENTAL BRIEF OF PETITIONER

Matthew B. Larsen
Counsel of Record
Federal Defenders of New York
Appeals Bureau
52 Duane Street, 10th Floor
New York, New York 10007
(212) 417-8725
Matthew_Larsen@fd.org

Counsel for Petitioner

SECOND SUPPLEMENTAL BRIEF OF PETITIONER

Pursuant to Rule 15.8, Petitioner Ramon Aponte submits this brief to call the Court's attention to "matter not available at the time of [his] last filing."

On September 21, 2026, Aponte filed his Petition for a Writ of Certiorari, which presents the "question left open after" this Court's ruling in *United States v. Taylor*, 596 U.S. 845 (2022): whether "completed Hobbs Act robbery qualifies as a crime of violence under [18 U.S.C.] § 924(c)(3)(A)." *United States v. Stoney*, 62 F.4th 108, 113 (3d Cir. 2023). Aponte's petition also involves whether, given that this question is undisputedly "debatable," *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003), a certificate of appealability ("COA") should issue.

On October 8, Aponte filed a supplemental brief advising this Court that the Second Circuit had on October 7 docketed the rehearing petition that he submitted on August 4. As explained in his supplemental brief, this Court might wish to hold his certiorari petition pending resolution of his request for rehearing in the Circuit.

There is now another reason to hold Aponte's petition. On October 13, the Court granted certiorari in *Berry v. United States*, Sup. Ct. 25-7026, which presents the question whether a COA is warranted "where the issue that the petitioner seeks to raise on appeal has been resolved against him by binding circuit precedent but has been resolved in his favor by another circuit." Cert. Pet. at i.

This question asks, in essence, whether a COA is warranted when circuit judges disagree over an issue open in this Court. If the Court answers "yes," that will counsel granting Aponte's certiorari petition. As detailed in his petition,

district judges disagree over an issue open in this Court – whether Hobbs Act robbery is a § 924(c)(3)(A) “crime of violence” – and the “COA determination” asks only if an issue is “debatable amongst jurists of reason.” *Miller-El*, 537 U.S. at 336. If debate at the circuit-court level over an issue open in this Court is held to warrant a COA, then debate at the district-court level over such an issue should too: district judges, no less than circuit judges, are “jurists of reason.”

The Court should hold Aponte’s petition for its ruling in *Berry*.

Respectfully submitted,

Matthew B. Larsen
Counsel of Record
Federal Defenders of New York
Appeals Bureau
52 Duane Street, 10th Floor
New York, NY 10007
(212) 417-8725
Matthew_Larsen@fd.org

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