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

THIRD SUPPLEMENTAL BRIEF OF PETITIONER

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THIRD 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 docketed the rehearing petition he submitted on August 4.

Today, the Circuit denied that petition. *See* 2d Cir. 23-6694, Docket Entry 56. This latest refusal even to entertain Aponte's arguments confirms the circuits aren't going to budge from their view that Hobbs Act robbery is a § 924(c) predicate. As detailed in Aponte's certiorari petition, however, such robbery does not have "as an element the use, attempted use, or threatened use of physical force against the person or property of another." § 924(c)(3)(A). Nonetheless, scores of people have been (and continue to be) sentenced to consecutive prison terms of at least 5 years on the mistaken view that Hobbs Act robbery fits the definition at § 924(c)(3)(A).

Given the circuits' refusal to right this wrong, the Court should correctly "settle[]" this immensely "important question." Sup. Ct. R. 10(c).

Failing an on-the-merits answer to the question here, the Court should grant Aponte's petition, vacate the Circuit's order denying him a COA and remand with instructions to issue the COA. Undisputedly, whether Hobbs Act robbery is a crime of violence as defined at § 924(c)(3)(A) is "debatable amongst jurists of reason." *Miller-El*, 537 U.S. at 336.

Finally, as explained in Aponte's supplemental brief of October 22, failing a GVR now, the Court should hold Aponte's petition pending its ruling in *Berry v. United States*, Sup. Ct. 25-7026. If the Court there rules that disagreement among circuit judges over a question open in this Court warrants a COA, then Aponte will merit one too: district judges disagree over whether Hobbs Act robbery is a § 924(c) predicate, and district judges, no less than circuit judges, are "jurists of reason." *Miller-El*, 537 U.S. at 336.

Respectfully submitted,

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