

IN THE SUPREME COURT OF THE UNITED STATES

No. A-_____

DARRELL WYLIE, APPLICANT

v.

UNITED STATES OF AMERICA

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

To the Honorable Samuel A. Alito, Jr., Circuit Justice for the United States Court of Appeals for the Third Circuit:

Pursuant to Rules 13.5 and 30.2 of this Court, Darrell Wylie respectfully applies for a 60-day extension of time, to and including September 21, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit in this case. 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. 18a. Unless extended, the time for filing a petition for a writ of certiorari will expire on July 22, 2026. This Court’s jurisdiction would be invoked under 28 U.S.C. 1254(1).

1. Applicant Darrell Wylie was charged with and convicted of violating Hobbs Act robbery, among other charges. 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).

2. The Court of Appeals for the Third Circuit appointed the Federal Public Defender for the Western District of Pennsylvania to serve as amicus curiae on behalf of Mr. Wylie and directed amicus curiae to address the following issue raised by Mr. Wylie’s pro se 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.” 3d Cir. Doc. No. 59.

3. As directed, amicus curiae filed a brief explaining that Mr. Wylie’s conduct does not satisfy the definition of “robbery” in the Hobbs Act. 3d Cir. 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 target of what was a sting operation, the “taking” of the money had already occurred. *See id.* at 23-25.

4. The court of appeals affirmed, 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.

5. Mr. Wylie filed a petition for panel rehearing and rehearing en banc, which the court denied. App. 18a.

6. Shortly after the court decided this case, the Eleventh Circuit 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 Hobbs Act’s definition of “robbery,” 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.

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.

7. Contrary to the court’s decision this case, the *Grable* Court correctly rejected the government’s reliance on the Model Penal Code’s definition of robbery. As the court recognized, the Model Penal Code—enacted 16 years after the Hobbs Act—adopts the modern view of robbery to include force that is used *after* the taking. *See Grable*, 162 F.4th at 1329. The Model Penal Code “represents a broader conception of the offense than previously existed in many states.” *Id.* Indeed, the Model Penal Code’s “modern understanding of robbery” was “not the prevalent view in 1946, when Congress enacted the Hobbs Act.” *Id.* As the Eleventh Circuit recognized, the Hobbs Act did not incorporate the Model Penal Code’s modern view of robbery. *Id.*

8. Thus, this case presents a clear split of authority on an important question of statutory construction with significant consequences for the applicant.

9. Counsel for Mr. Wylie respectfully requests a 60-day extension of time, to and including September 21, 2026, within which to file a petition for writ of certiorari. The undersigned has been ordered to file supplemental briefing within the month to address recent decisions of this Court in three matters, including one appeal pending before the en banc Third Circuit Court of Appeals and one appeal remanded to the Third Circuit after this Court granted certiorari and vacated the

judgment. During that same period, counsel must research, draft, and file a Reply Brief in a case for which she was not counsel of record but assumed responsibly after prior counsel was forced to withdraw. That filing deadline cannot be extended. Counsel has multiple other intervening due dates in the Court of Appeals and also is preparing for sentencing proceedings in matter pending before a District Court in the Western District of Pennsylvania. As supervisory attorney, the undersigned is also responsible for overseeing multiple cases in this office's appellate unit and co-counseling several appeals with recent new hires. Additional time is therefore needed to prepare the petition in this case, which will raise at least one issue on which there is a clear circuit split.

Respectfully submitted.

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