

# Wiley Files Supreme Court Petition for Certiorari in *Hatley v. United States*

June 9, 2023

Washington, DC – Working with the Supreme Court Program at the University of North Carolina School of Law, Wiley Rein LLP filed a petition for a writ of certiorari in *Hatley v. United States*, asking the U.S. Supreme Court to resolve a disagreement among several federal courts of appeal regarding the types of crimes that qualify as violent felonies under the Armed Career Criminal Act (ACCA).

The June 2 petition seeks a Supreme Court review of a Seventh Circuit decision that upheld a 15-year prison sentence on the grounds that a prior conviction for Hobbs Act robbery falls within the ACCA's definition of "violent felony."

The case stems from petitioner Lavelle Hatley's 2020 guilty plea to a federal firearms offense that usually carries a maximum sentence of 10 years. During sentencing, the U.S. District Court for the Northern District of Indiana ruled that Hatley was subject to an enhanced sentence of 15 years because he had at least three previous violent felony convictions – two at the state level and eight Hobbs Act robbery convictions at the federal level. A three-judge panel of the Seventh Circuit affirmed.

Wiley argues in the petition that Hobbs Act robbery is not a "categorical match" for the ACCA's definition of "violent felony" because one could commit Hobbs Act robbery without also committing one of the offenses specified in the ACCA's definition of "violent felony." Specifically, the petition argues, the Seventh Circuit erred in holding that Hobbs Act robbery involving the use or threatened use of force against property necessarily constitutes extortion, because extortion requires obtaining something of value through the victim's induced consent while Hobbs Act robbery

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requires an unlawful taking of personal property “against the will” of the victim, without the need for consent. Therefore, a conviction for Hobbs Act robbery cannot qualify as a “violent felony” triggering the ACCA’s 15-year mandatory minimum sentence.

As Wiley explains in the petition, the Tenth Circuit has reached a similar conclusion to that of the Seventh Circuit with respect to crimes involving non-consensual takings of property, while the Fourth, Sixth, and Ninth Circuits have held that crimes involving non-consensual takings of property are not a “categorical match” for the offense of extortion and thus do not qualify as a “violent felony” under the ACCA.

“The conflict between the approach taken by the Fourth, Sixth, and Ninth Circuits, on the one hand, and that taken by the Seventh and Tenth Circuits, on the other, results in significantly different sentencing schemes in these circuits,” Wiley argues in the petition. “In the former, a conviction for a non-consensual taking of property, including but not limited to Hobbs Act robbery, does not constitute a basis for a sentencing enhancement under the ACCA. But in the latter, it does. This disparity has a significant, real-world impact given the number of offenders convicted of Hobbs Act robbery each year.”

The petitioner is represented on a pro bono basis by Wiley partner Richard A. Simpson, special counsel Morgan L. Chinoy, and associate Patrick Griffo. The Wiley team filed the petition along with co-counsel Johanna M. Christiansen of the Office of the Federal Public Defender for the Central District of Illinois and Professor F. Andrew Hessick of the University of North Carolina School of Law. Law students Aurora Jacques, Anna-Jamieson Beck and Harrison Longano as well as Wiley project assistants Sophia Winston-Mendoza and Jack Neary also participated in preparing the petition.