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PRESS RELEASE

Wiley Files Supreme Court Petition in Three-Strikes Case Involving "Categorical Approach" to Federal Sentencing Decisions

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Washington, DC – Wiley, working the Supreme Court Program at the University of North Carolina School of Law and the Office of the Federal Public Defender in Maryland, filed a petition for a writ of certiorari in *Lightfoot v. United States*, asking the U.S. Supreme Court to resolve a disagreement among the federal courts of appeals about how the "categorical approach" should be applied in federal sentencing determinations. The case has significant implications for criminal sentencing under several federal criminal statutes and in other contexts, including immigration.

The May 15 petition seeks review of an October 2024 Fourth Circuit decision upholding a sentence of life imprisonment imposed under the federal "three strikes" law, which mandates a life sentence for a defendant convicted of certain crimes who has two or more convictions for any of several enumerated offenses, including robbery. Under the categorical approach, a prior conviction qualifies as a predicate enumerated offense only if the least culpable conduct necessary to support the prior conviction would constitute the enumerated offense, regardless of the defendant's actual conduct. The petition argues that where, by its plain language, the predicate offense criminalizes conduct outside the enumerated offense, there is no categorical match, without regard to whether there is a "realistic possibility" that the state would prosecute that broader conduct. The petition argues that the Fourth Circuit's ruling adopting a different approach exacerbated a circuit split regarding how the categorical approach should be applied.

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"This split means that identically situated defendants will receive drastically different sentencing outcomes depending on the circuit in which they are sentenced," Wiley explained in the petition. "Defendants convicted of the same federal crime with identical prior convictions may be subject to mandatory life imprisonment in the Fourth and Fifth Circuits but not in the First, Second, Third, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits. This Court should grant review to resolve the issue of how the categorical approach should be applied when the plain language of the predicate offense criminalizes conduct beyond the scope of the relevant federal definition."

Richard A. Simpson, partner in Wiley's Issues and Appeals Practice, is representing the petitioner pro bono along with Andrew Hessick, Distinguished Professor of Law and Associate Dean for Strategy & Planning at the University of North Carolina School of Law, and Paresh S. Patel, Assistant Federal Public Defender at the District of Maryland Office of the Public Defender.