No. 17-6577

IN THE
Supreme Court of the United States

RICHARD ARTHUR ORR,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For the Fourth Circuit

BRIEF OF THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF THE *AMICUS CURIAE*[1]

The National Association of Criminal Defense Lawyers ("NACDL") is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct. NACDL was founded in 1958. It has a nationwide membership of many thousands of direct members, and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is the only nationwide professional bar association for public defenders and private criminal defense lawyers. NACDL is dedicated to advancing the proper, efficient, and fair administration of justice. NACDL files numerous briefs as *amicus curiae* each year in the United States Supreme Court and other federal and state courts. NACDL seeks to provide *amicus* assistance in cases like this one that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole.

This case presents a question of great importance to NACDL and the clients its attorneys represent. This question reflects a circuit court split concerning

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[1] Pursuant to Supreme Court Rule 37.2(a), counsel of record for both parties received notice of *amicus curiae*'s intention to file this brief at least 10 days prior to the due date. Petitioner and Respondent have consented to the filing of this brief, and their letters of consent have been filed with the Clerk. No party authored this brief in whole or in part, and no person or entity, other than *amicus curiae*, its members, or its counsel, has made a monetary contribution to the preparation or submission of this brief.

the application of sentencing enhancements under the Armed Career Criminal Act ("ACCA") for robbery convictions. Congress intended sentencing enhancements under the ACCA to be reserved for only a minute portion of convictions in the United States—"the very worst offenders." In practice, however, the government has used the ACCA in a sweeping manner to provide sentencing enhancements to defendants convicted of robberies involving only a minimal amount of force, not the level of "violent force" required under the Act and this Court's decision in *Johnson v. United States (Johnson 2010),* 559 U.S. 133, 141-42 (2010). Robberies that do not involve "violent force" under the ACCA are not an appropriate predicate offense for sentencing enhancements.

NACDL has a strong interest in both clarifying and limiting the scope of the ACCA's application to prior robbery convictions. A large number of states, including Florida, define robbery to require only the bare minimum amount of force necessary to overcome a victim's resistance (e.g., purse snatching). Congress did not intend for these sorts of crimes to be subject to sentencing enhancements under the ACCA. Furthermore, courts have applied the existing doctrine inconsistently, so that defendants with prior robbery convictions may receive widely disparate sentences under the ACCA depending on the jurisdiction in which they were convicted of robbery.

For these reasons, NACDL urges this Court to grant review to determine whether state robbery statutes, like Florida's, that allow robbery convictions in situations involving even the most minimal force,

qualify as predicate offenses for sentencing enhancement under the ACCA. This issue has arisen numerous times and will continue to arise until this Court resolves the circuit conflict by clarifying the correct application of the ACCA in the case of predicate robbery convictions. This Court's review is necessary to ensure the fair and consistent administration of justice.

INTRODUCTION AND SUMMARY OF ARGUMENT

This Court should grant review for all of the reasons detailed in the Petition. *Amicus* respectfully submits this brief to highlight important additional considerations favoring this Court's review.

First, review is warranted because the current circuit split thwarts the rationales underlying the categorical approach. By comparing a state statute's elements with the generic federal offense under the ACCA, the Court hoped to uniformly apply sentence enhancements to intended offenses. This approach was meant to comport with ACCA's statutory text and history to target only the worst offenders and avoid the unfairness that would flow from a lack of uniform treatment across states. Yet, the very opposite is occurring.

In practice, despite the ACCA's focus on sentencing enhancements for only the very worst offenders, lower court decisions sweep in convictions involving non-violent offenses. For example, 27 states have found that varying forms of minimal force purse snatchings are sufficient to constitute robberies. (Florida, the state in which Petitioner was convicted,

is one of these states and requires only that a robber use the minimum amount of force necessary to overcome a victim's resistance.) In these states, robbery convictions can hardly be said to implicate only the worst offenders or the level of "violent force" contemplated by this Court in *Johnson 2010*. But several lower courts have decided that robbery categorically qualifies as a predicate offense under the Act.

Furthermore, despite the Court's and Congress' intention that sentencing courts would apply the ACCA consistently, the result of the circuit split is that an offender with a prior robbery conviction may receive a vastly different sentence depending on the jurisdiction in which he is convicted. This Court's review is necessary to resolve these sentencing disparities, which will only continue to lead to further legal challenges by defendants' counsel seeking doctrinal clarity and uniform treatment. Review is warranted to resolve these growing inconsistencies as lower court decisions continue to tug in opposing directions in applying the categorical approach.

Second, this Court should also grant review to clarify the "realistic probability" analysis that lower courts undertake to determine whether a state statute sweeps more broadly than the generic federal crime under the ACCA. Lower courts have inconsistently and incorrectly applied this analysis, which adds further uncertainty and arbitrariness to an offender's sentence. For example, certain courts fail to properly consider the real world application of state robbery statutes by intermediate appellate courts. By ignoring robbery convictions involving non-violent force, lower courts effectively turn a blind eye to both the

ACCA's purpose to target the worst offenders and this Court's interpretation of violent force in *Johnson 2010*.

Such arbitrary and conflicting decisions are inconsistent with the ACCA's goals and test the bounds of the fair administration of justice. This Court should grant review to clarify whether the ACCA applies to non-violent robbery convictions.

ARGUMENT

I. The Circuit Court Split Thwarts the Court's Rationales in Adopting the Categorical Approach

The Court should grant review to safeguard the formal categorical approach doctrine and promote the doctrine's goals. In *Taylor v. United States*, the Court established this doctrine to determine whether a defendant's prior convictions count as one of the ACCA's enumerated predicate felonies. 495 U.S. 575, 581-90 (1990). The Court directed sentencing courts to look only to the elements of a defendant's prior offenses. *Id.* at 599-600. If the state statute's elements "sweep[] more broadly than the generic crime," a prior conviction will not count as a predicate felony because it includes lesser offenses outside the ACCA's scope. *Descamps v. United States*, 133 S. Ct. 2276, 2283 (2013).

In *Descamps v. United States*, the Court reiterated the doctrine's underlying rationales. *Id.* at 2289 (citing *Taylor*, 495 U.S. at 600-01). First, the categorical approach "comports with ACCA's text and history" by construing the ACCA to cover only violent felonies in

order to target the very worst offenders. *Taylor*, 495 U.S. at 601. Second, it is meant to avoid "potential unfairness" by treating prior convictions uniformly. *Id*. However, the current circuit split frustrates both ideals.

A. The Court Should Grant Review to Clarify Whether Congress Intended the ACCA to Target Purse Snatching and Other Non-Violent Robberies

Congress designed the ACCA to increase prison sentences for the worst offenders. The drafters targeted "a small number of repeat offenders" who "commit a highly disproportionate amount of the violent crime plaguing America today." S. Rep. No. 97-585, at 20 (1982). Additionally, they assuaged criticisms about the bill's broad reach by emphasizing that it was "very narrowly aimed at the hard core of career criminals." *Id.* at 62-63. Furthermore, the drafters noted that it "focuses on the very worst robberies, by the very worst offenders with the worst records." *Id.*

Despite this narrow focus on the worst offenders, critics of the Act denounced its broad application to sweep in offenders involved in non-violent crimes. *See, e.g.,* Beverly G. Dyer, *Revising Criminal History: Model Sentencing Guidelines* §§ 4.1-4.2, 18 Fed. Sent'g. Rep. 373, 376 (June 2006). For instance, critics identified one qualifying offender who stole lobster tails from a grocery store, verbally threatened a security guard, and was convicted of drunk driving. *United States v. Sperberg*, 432 F.3d 706 (7th Cir.

2005). This Court, in *Johnson 2010*, rejected this expansive interpretation of the ACCA. 559 U.S. at 141-42. The Court accused the Government of improperly importing offenses historically defined as misdemeanors into the ACCA's definition of "physical force." *Id.* Rather, it reasoned that the term "physical force" within the context of a violent felony connotes "force capable of causing physical pain or injury to another person." *Id.* at 140. Because the Florida battery statute at issue in *Johnson 2010* encompassed offenses involving less than violent force, the Court held that battery is not a predicate felony under the ACCA. *Id.* at 138-42, 144.

If the federal courts were to apply the ACCA to all prior robbery offenses, they would sweep in offenders outside the Act's intended scope. State robbery statutes in the majority of American jurisdictions encompass low-force encounters like purse snatching. For example, courts in 16 states[2] applying the "overcomes resistance" standard—a standard similar to the

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[2] *Butts v. State*, 53 P.3d 609, 613 (Alaska Ct. App. 2002) (tug-of-war over victim's purse); *State v. Lewis*, 2010 WL 173308, at *3 (Ariz. Ct. App. Jan. 19, 2010) (same); *People v. Burns*, 172 Cal. App. 4th 1251, 1259, 92 Cal. Rptr. 3d 51, 57 (2009) (same); *State v. Scott*, 20 Conn. App. 513, 517, 568 A.2d 1048, 1051 (1990) (same); *State v. Male*, 2002 WL 264457, at *1 (Del. Super. Ct. Feb. 14, 2002), *aff'd*, 812 A.2d 224 (Del. 2002) (same); *Benitez-Saldana v. State*, 67 So. 3d 320, 323 (Fla. 2d Dist. Ct. App. 2011) (same); *State v. Oksanen*, 311 Minn. 553, 554, 249 N.W.2d 464, 466 (1977) (defendant pushed victim while taking wallet); *State v. Lewis*, 466 S.W.3d 629, 633 (Mo. Ct. App. E.D. 2015), *reh'g and/or transfer denied*, (June 23, 2015) *and transfer denied*, (Aug. 18, 2015) (tug-of-war over victim's purse); *Jefferson v. State*, 840 P.2d 1234 (Nev. 1992) (same); *People v. Brown*, 663

one applied in Florida—have found offenses equivalent to a tug-of-war over a purse sufficient under the robbery statute. Courts in six states[3] have held that snatching, without more, was sufficient force to constitute robbery. Courts in four states[4] have

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N.Y.S.2d 539, 540, 243 A.D.2d 363 (1997) (tug-of-war over victim's cassette tapes); *State v. Juhasz*, 2015 WL 5515826, at *2 (Ohio Ct. App. 2015) (defendant tugged purse from victim's shoulder); *King v. State*, 1978 OK CR 59, 580 P.2d 164, 165 (1978) (tug-of-war over victim's purse); *State v. Johnson*, 215 Or. App. 1, 6, 168 P.3d 312, 314-15 (2007) (victim felt purse pulled out of grasp by defendant); *Jones v. Commonwealth*, 26 Va. App. 736, 739, 496 S.E.2d 668, 670 (1998) (defendant 'jerked' victim around by tugging on purse); *State v. Rodenbaugh*, 81 Wash. App. 1052, at *1 (1996) (defendant pushed victim while grabbing purse); *Madison v. State*, 64 Wis. 2d 564, 219 N.W.2d 259 (1974) (tug-of-war over victim's purse).

[3] *Brown v. State*, 309 Ga. App. 511, 514, 710 S.E.2d 674, 678 (2011) (victim conscious of robbery and wallet taken from victim's "immediate presence"); *Jones v. Commonwealth*, 112 Ky. 689, 66 S.W. 633, 634 (1902) (snatching done so quickly that victim had no chance to resist); *Raymond v. State*, 467 A.2d 161, 164-65 (Me. 1983) ("the mere act of snatching a purse from the hand of a victim is a sufficient act of physical force required for robbery"); *Commonwealth v. Jones*, 362 Mass. 83, 89, 283 N.E.2d 840, 844-45 (1972) (same); *Chaney v. State*, 739 So. 2d 416, 418 (Miss. Ct. App. 1999) ("that the money was taken by removal from the pocket with enough force to cause the victim to lose his balance or otherwise fall"); *Commonwealth v. Brown*, 506 Pa. 169, 177, 484 A.2d 738, 742 (1984) (defendant took pocketbook hanging from victim's arm).

[4] *People v. Taylor*, 129 Ill. 2d 80, 133 Ill. Dec. 466, 541 N.E.2d 677, 680 (1989) (finding sufficient force where a necklace was snatched from the victim's neck); *Raiford v. State*, 52 Md. App. 163, 447 A.2d 496, 500 (Ct. Spec. App. 1982), *aff'd in relevant part*, 296 Md. 289, 462 A.2d 1192, 1195-97 (1983) (finding sufficient force where purse "ripped" from victim's shoulder); *State v. Harris*, 186 N.C. App. 437, 440, 650 S.E.2d 845, 847 (2007) (finding sufficient force where a necklace was snatched from the

determined that snatching involves sufficient force for a robbery when grabbing an article attached to the victim causes resistance. Lastly, the Kansas Supreme Court has held that the act of snatching, without more, constitutes a threat of bodily harm sufficient for a robbery.[5] These purse snatching offenses do not reflect a use of "violent force" as contemplated by the Court in *Johnson 2010*. 559 U.S. at 140 ("force capable of causing physical pain or injury to another person").

Because of the non-violent nature of offenses such as purse snatchings, courts applying the ACCA should not use such offenses as a predicate for imposing enhanced sentences designed to target "the very worst offenders." But several lower courts have already decided that robbery categorically qualifies as a violent crime under the ACCA force clause without acknowledging minimal-force robbery offenses like purse snatching.[6] The Court should grant review to clarify whether Congress truly intended a fifteen-year mandatory minimum sentencing enhancement for an offender with a criminal history of purse snatching.

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victim's neck); *State v. Robertson*, 740 A.2d 330, 334 (R.I. 1999) (same).

[5] *State v. McKinney*, 265 Kan. 104, 113, 961 P.2d 1, 8 (1998).

[6] *See, e.g., United States v. Orr*, 685 F. App'x 263, 267 (4th Cir. 2017), *petition for cert. filed* (Nov. 1, 2017) (Florida robbery conviction); *Jennings v. United States*, 860 F.3d. 450, 457 (7th Cir. 2017) (Minnesota robbery conviction); *United States v. Matthews*, 689 F. App'x 840, 845 (6th Cir. 2017), *petition for cert. docketed* (Sept. 7, 2017) (Michigan unarmed robbery conviction).

Furthermore, in establishing such a rule, the Court would not remove robbery offenders entirely from the purview of the ACCA. Recognizing the breadth of robbery offenses, many states divide their robbery statutes into degrees or grades, depending upon the presence or absence of certain aggravating circumstances.[7] Aggravated robbery offenses merit harsher punishment if additional elements are met, such as causing injury or using a firearm—elements likely to fall within the scope of the ACCA's generic federal crime. By granting review, the Court could distinguish between lesser offenses that do not qualify as ACCA predicate felonies and "the very worst robberies" that Congress intended to target with the ACCA.

B. The Court Should Grant Review to Resolve Inconsistencies in Applying the Categorical Approach

Uniformity concerns motivated the Court's decision in *Taylor* to implement the categorical approach. The Court reasoned that the arbitrary application of the ACCA by sentencing judges would stymie the ACCA's goals for consistency. *See Taylor*, 495 U.S. at 601 ("There was considerable debate over what kinds of offenses to include and how to define them, but no one suggested that a particular crime might sometimes count towards enhancement and sometimes not, depending on the facts of the case."). In *Descamps*, the Court reiterated that "Congress made a deliberate decision to treat every conviction of a crime in the same

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[7] 4 Charles E. Torcia, *Wharton's Criminal Law* § 468 (15th ed. 2017).

manner." 133 S. Ct. at 2287 (citing *Taylor*, 495 U.S. at 601). By focusing on statutory elements, the Court acknowledged that the categorical approach would promote uniform sentencing consequences even when statutory language varied from state to state. *Taylor*, 495 U.S. at 588-89. The Court hoped that the doctrine would "function as an on-off switch" to reflect Congress' intent "that a prior crime would qualify as a predicate offense in all cases or in none." *Descamps*, 133 S. Ct. at 2287.

Congress' desire for uniformity, however, remains unrealized. Because of the circuit split on the correct application of the categorical approach, an offender with a prior robbery conviction would face a fifteen-year mandatory minimum if sentenced in the Fourth or Eleventh Circuit.[8] That same offender, if sentenced in the Ninth Circuit, would receive at most ten years.[9] Congress "could not have intended vast sentencing disparities for defendants convicted of identical criminal conduct in different jurisdictions." *Mathis v. United States*, 136 S. Ct. 2243, 2258 (2016) (Kennedy, J., concurring). Contrary to Congress' wishes, the ACCA is not functioning as an "on-off switch."

The Court should grant review to resolve whether the Florida robbery statute qualifies as an ACCA predicate felony. Without a definitive answer, defense attorneys will continue to mount challenges on behalf

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[8] *Orr*, 685 F. App'x at 267 (affirming 180-month sentence); *United States v. Fritts*, 841 F.3d 937, 944 (11th Cir. 2016) (same).

[9] *See* 18 U.S.C. § 922(g)(1); *see also United States v. Geozos*, 870 F.3d 890, 901 (9th Cir. 2017).

of defendants facing lengthy and arbitrary prison sentences. Indeed, a dozen certiorari petitions to the Eleventh Circuit are currently pending before this Court on the Florida robbery issue alone.[10] The proliferation of cases raising this question has resulted in the unpredictable application of a doctrine meant to provide consistency. And as lower court decisions continue to tug at the loose threads of the doctrine, the categorical approach may unravel.

Moreover, by granting review in this case, the Court may be able to address similar questions[11] so as to bolster the coherent application of the categorical approach doctrine. Lower courts have muddied the doctrine by inconsistently applying the categorical approach to analogous state statutes.[12] Indeed, at least

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[10] *Stokeling v. United States*, *petition for cert. filed*, No. 17-5554 (Aug. 4, 2017); *Davis v. United States*, *petition for cert. filed*, No. 17-5543 (Aug. 8, 2017); *Conde v. United States*, *petition for cert. filed*, No. 17-5772 (Aug. 24, 2017); *Phelps v. United States*, *petition for cert. filed*, No. 17-5745 (Aug. 24, 2017); *Williams v. United States*, *petition for cert. filed*, No. 17-6026 (Sept. 14, 2017); *Everette v. United States*, *petition for cert. filed*, No. 17-6054 (Sept. 18, 2017); *James v. United States*, *petition for cert. filed*, No. 17-6271 (Oct. 3, 2017); *Middleton v. United States*, *petition for cert. filed*, No. 17-6276 (Oct. 3, 2017); *Rivera v. United States*, *petition for cert. filed*, No. 17-6374 (Oct. 12, 2017); *Shotwell v. United States*, *petition for cert. filed*, No. 17-6540 (Oct. 17, 2017); *Mays v. United States*, *petition for cert. filed*, No. 17-6664 (Nov. 2, 2017); *Hardy v. United States*, *petition for cert. filed*, No. 17-6829 (Nov. 9, 2017).

[11] A majority of states appear to define robbery using an overcomes-resistance standard similar to the one used by the Florida Supreme Court in *Robinson v. State*, 692 So. 2d 883, 887 (Fla. 1997). Pet. 15-16 n.4.

[12] Compare lower courts finding that a robbery conviction is not an ACCA predicate because the offense encompasses less than

four currently pending certiorari petitions ask whether the ACCA should apply to similar, but not quite identical, robbery statutes.[13] By examining multiple robbery statutes under the categorical approach, the Court could clarify the doctrine's analytical steps and encourage uniformity.

II. The Court Should Grant Review to Clarify the "Realistic Probability" Analysis

Under the categorical approach, this Court's precedent requires lower courts to undertake a "realistic probability" analysis by consulting real world applications of state statutes by the state supreme court and intermediate appellate courts. *Moncrieffe v. Holder*, 569 U.S. 184, 191, 194-95 (2013). To assist with this analysis, the Court directs litigants to identify cases

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violent force, *United States v. Starks*, 861 F.3d 306, 321 (1st Cir. 2017) (Massachusetts unarmed and armed robbery statutes); *United States v. Mulkern*, 854 F.3d 87, 93-94 (1st Cir. 2017) (Maine robbery statute); *United States v. Winston*, 850 F.3d 677, 685 (4th Cir. 2017) (Virginia robbery statute); *United States v. Gardner*, 823 F.3d 793, 803-04 (4th Cir. 2016) (North Carolina robbery statute); *United States v. Yates*, 866 F.3d 723, 729-30 (6th Cir. 2017) (Ohio robbery statute); *Geozos*, 870 F.3d at 901-02 (Florida robbery statute), with the Seventh Circuit's decision finding that robbery offenses involving anything "beyond simple touching" could inflict bodily harm and physical pain upon a victim and thus, should be considered violent force under the ACCA, *Jennings*, 860 F.3d. at 457 (Minnesota robbery statute).

[13] *Harris v. United States*, *petition for cert. filed*, No. 16-8616 (Apr. 4, 2017) (Colorado robbery statute); *Lamb v. United States*, *petition for cert. filed*, No. 17-5152 (July 10, 2017) (Michigan unarmed robbery statute); *Matthews v. United States*, *petition for cert. filed*, No. 17-5876 (Sept. 5, 2017) (same); *Jennings v. United States*, *petition for cert. filed*, No. 17-6835 (Nov. 13, 2017) (Minnesota robbery statute).

in which state courts applied the statute to conduct outside the scope of the ACCA's "generic" federal offense. *Gonzales v. Duenas–Alvarez*, 549 U.S. 183, 193 (2007). If the litigant makes this showing, the Court finds a "realistic probability" that the statute sweeps more broadly than the generic crime. *See id.* at 193 ("To show that realistic probability, an offender . . . must at least point to his own case or other cases in which the state courts in fact did apply the statute in the special (nongeneric) manner for which he argues.").

But lower courts have incorrectly and inconsistently applied the "realistic probability" analysis. These differences increase the risk of arbitrary sentencing determinations. An offender's prison sentence should not be dictated by a variance in federal appellate court precedent where he was convicted. The Court should grant review to resolve inconsistencies and ward off "exactly the differential treatment we thought Congress, in enacting the ACCA, took care to prevent." *Descamps*, 133 S. Ct. at 2288.

Following precedent, many lower courts have acknowledged both state supreme court and intermediate appellate court decisions when determining whether there is a realistic probability.[14] But, not all courts have followed suit. The Fourth Circuit ignored

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[14] *See, e.g., United States v. Doctor*, 842 F.3d 306, 312 (4th Cir. 2016) ("There is no general statement from the South Carolina Supreme Court or intermediate appellate court to that effect."); *United States v. Bell*, 840 F.3d 963, 966 (8th Cir. 2016) (considering a Missouri Court of Appeals decision); *Geozos*, 870 F.3d at 900 (considering both the Florida Supreme Court and intermediate appellate courts' interpretations).

several intermediate appellate court decisions cited by Petitioner to conclude that "given the weight of the case law . . . more than *de minimis* force is required under the Florida robbery statute." *Orr*, 685 F. App'x at 265. Similarly, the Sixth Circuit declined to acknowledge intermediate appellate court decisions that "apply the Tennessee robbery statute in a manner inconsistent with the federal definition of a violent felony" because the court felt that "such applications are also inconsistent with Tennessee Supreme Court precedent." *United States v. Southers*, 866 F.3d 364, 368 (6th Cir. 2017). Additionally, the Eleventh Circuit relied on the "bare elements" of the Florida robbery statute instead of consulting state case law. *United States v. Lockley*, 632 F.3d 1238, 1245 (11th Cir. 2011). The Court should grant review to resolve these discrepancies.

Moreover, courts should consider relevant intermediate appellate court decisions in order to accurately assess the real world application of the statute. As the survey of state robbery statutes demonstrates, many intermediate appellate courts, including those in Florida, have interpreted robbery to include purse snatching offenses. *See* notes 2-5, *supra*. The Fourth Circuit has misapplied the ACCA by imposing enhanced sentences based on prior robbery convictions involving non-violent conduct. Indeed, the Fourth Circuit's interpretation of the "realistic probability" standard "reflect[s] an apparent view" that a pickpocket like Oliver Twist "was a violent felon" if he used minimal force to part a victim with his or her property. *Cf. Derby v. United States*, 564 U.S. 1047, 1047 (2011) (Scalia, J., dissenting). This conclusion conflicts with both the ACCA's purpose to target the

worst offenders and the Court's interpretation of "physical force" in *Johnson 2010*. For these reasons, the Court should clarify whether the "use of force prong" under the ACCA should include non-violent offenses like purse snatching.

CONCLUSION

The decision below is part of a growing number of conflicting decisions regarding the ACCA's application to robbery convictions involving non-violent force. This Court should grant the petition for a writ of certiorari and resolve these doctrinal inconsistencies in order to further the categorical approach's dual goals of promoting congressional intent and sentence uniformity.

Respectfully submitted,

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