

Robbery Is A “Violent Felony” Under Armed Career Criminal Act

15 Jan 2019

The Armed Career Criminal Act provides a 15-year mandatory minimum sentence for anyone who had previously been convicted of three “violent” felonies. The Act defines a “violent felony” as “any crime punishable by imprisonment for a term exceeding one year” that “has as an element the use, attempted use, or threatened use of physical force against the person of another.” In [Stokeling v. United States](#), after Stokeling pleaded guilty to a gun possession charge, he objected to receiving the Act’s sentence because his prior conviction for robbery under Florida law, when he grabbed a woman and tried to remove her necklaces while she held on to them, did not require proof of an element of physical force—merely proof that he overcame the victim’s resistance. The district court agreed with Stokeling and declined to apply the Act, but the Eleventh Circuit reversed. The Court, in a 5-4 opinion by Justice Thomas, affirmed. The Court distinguished the case from [Johnson v. United States](#), 559 U.S. 133 (2010), where mere “touching” was held to be inadequate to rise to the level of “physical force” required under the Act. “Physical force” requires “force capable of causing physical pain or injury,” and force sufficient to overwhelm a victim’s resistance meets that definition. Thus, the Court held that a conviction under Florida’s robbery statute constituted a “violent felony” under the Act, and Stokeling should receive the mandatory minimum sentence thereunder. Justice Sotomayor, joined by Chief Justice Roberts and Justices Ginsburg and Kagan, dissented, arguing that the majority misconstrued *Johnson*, and that since resistance in a robbery case could be minimal, the force used could also be minimal such that it would not qualify as a “violent felony” under the Act.

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TAGGED: [scotus](#), [Johnson v. United States](#), [Armed Career Criminal Act](#), [Violent Felony](#), [physical force](#), [Stokeling v. United States](#)