Defining Violent Felonies under the Armed Career Criminal Act after Stokeling v. United States

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I. INTRODUCTION

In 2015, Denard Stokeling, the Petitioner, "pleaded guilty to possessing a firearm and ammunition after having been convicted of a felony."[1] Upon entering the plea, the United States Probation and Pretrial Services Office recommended that the District Court sentence Mr. Stokeling to fifteen years in prison as an armed career criminal under the Armed Career Criminal Act.[2] An individual who is found guilty of possessing a firearm and ammunition after having previously been convicted of three violent felonies receives a mandatory minimum sentence of fifteen years in prison under the Armed Career Criminal Act.[3] Mr. Stokeling had three previous felony convictions for home invasion, kidnapping, and robbery, which the government asserted were "violent felonies" that necessitated labeling Mr. Stokeling as an armed career criminal under the statute.[4] However, the District Court disagreed and sentenced Mr. Stokeling to considerably less than the mandatory minimum.[5] The United States Court of Appeals for the Eleventh Circuit ("Eleventh Circuit") reversed, finding that the District Court erred when it concluded, as a matter of fact, that Mr. Stokeling's previous robbery conviction under Florida law was not a violent felony.[6] The Eleventh Circuit also dismissed, as against the weight of their precedent, Mr. Stokeling's argument that robbery in Florida does not always require the force necessary to be

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1. Stokeling v. United States, 139 S. Ct. 544, 549 (2019).
2. *Id.* The Armed Career Criminal Act ("ACCA") is codified at 18 U.S.C. § 924(e) (2006).
3. *Stokeling*, 139 S. Ct. at 554 (citing 18 U.S.C. § 924(e)(1)).
4. *Id.*
5. *Id.*
6. United States v. Stokeling, 684 Fed. Appx. 870, 871 (11th Cir. 2017).

classified as a violent felony.[7] On certiorari, the United States Supreme Court affirmed the Eleventh Circuit's decision.[8] Florida robbery is a predicate offense under the Armed Career Criminal Act because the physical force required for a crime to be a violent felony under the Armed Career Criminal Act is the force sufficient to overcome a victim's resistance.[9]

II. ISSUE

The Armed Career Criminal Act represents a desire by Congress to remove habitual violent felons from society when they are convicted of possessing firearms.[10] The statute accomplishes this aim by lengthening the habitual offenders' prison sentences.[11] If the Supreme Court accepted the District Court and Mr. Stokeling's definition of force, the Armed Career Criminal Act's violent felony provision would essentially be hollowed.[12] Therefore, recognizing a wide disparity in the definition of force in felonious robbery statutes among the states, the Supreme Court granted certiorari.[13] The issue before the Court was whether the force required for a violent felony under the Armed Career Criminal Act was the force necessary to overcome a victim's resistance.[14] Writing for a five-member majority, Justice Clarence Thomas ruled that the definition of physical force necessary for robbery to serve as a predicate violent felony under the Armed Career Criminal Act is the force sufficient to overcome a victim's resistance and this classification is comparable to the Florida robbery statute.[15]

III. DEVELOPMENT OF THE ARMED CAREER CRIMINAL ACT

Mandatory minimum sentences have been a hallmark of the United States criminal justice system since the establishment of the republic.[16] In

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7. *Id.*; *see also* United States v. Fritts, 841 F.3d 937, 943–44 (11th Cir. 2016) (holding that an armed robbery conviction under Florida law was categorically a violent felony under the elements clause of the ACCA).

8. *Stokeling*, 139 S. Ct. at 555. The Supreme Court granted certiorari at Stokeling v. United States, 138 S. Ct. 1438 (2018).

9. *Stokeling*, 139 S. Ct. at 554.

10. Carl J. Hall, Comment, *You're Getting Out Early: Welch v. United States Allows Offenders to Retroactively Attack Sentences Under the Armed Career Criminal Act*, 52 VAL. U. L. REV. 711, 711. (2018); *see also* Jill C. Rafaloff, *The Armed Career Criminal Act: Sentence Enhancement Statute or New Offense?*, 56 FORDHAM L. REV. 1085, 1091–93 (1988) (detailing the legislative history of the ACCA).

11. *See* Rafaloff, *supra* note 10, at 1091.

12. *Stokeling*, 139 S. Ct. at 552.

13. *Id.*; *see generally* Stokeling v. United States, 138 S. Ct. 1438 (2018).

14. *Stokeling*, 139 S. Ct. at 554–55.

15. *Id.* at 548, 554–55.

16. Erik Luna & Paul G. Cassell, *Mandatory Minimalism*, 32 CARDOZO L. REV. 1, 9 (2010) (discussing the history of mandatory minimum sentencing in the United States); *see also* Harmelin v. Michigan, 501 U.S. 957, 999 (1991) (noting that debates about mandatory minimum sentences have existed since the beginning of the American criminal justice

1790, Congress enacted legislation that required life sentences for murder and piracy, and included a mandatory period of ten years imprisonment for "causing a ship to run aground by using a false light."[17] While critics of mandatory minimum sentences have been plentiful recently, the Supreme Court has been largely unwilling to strike down lengthy prison terms.[18] In fact, only one Supreme Court decision has invalidated an adult prison sentence as violating the Eighth Amendment to the United States Constitution because it was not proportional to the crime.[19] In *Solem v. Helm*, the Supreme Court held that the Eighth Amendment's protection against "cruel and unusual punishments" applied to disproportionate prison sentences.[20] In light of this determination, the Court found that a defendant convicted of writing a bad check, who had previously been convicted of six felonies, could not constitutionally be sentenced to serve fifteen years in prison.[21] Nevertheless, the Court has since remained steadfast in declining to reverse lengthy sentences or mandatory minimums.[22] Rather than

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system); United States v. Grayson, 438 U.S. 41, 45–46 (1978) (discussing the development of sentencing guidelines since the foundation of the United States).

17. Luna & Cassell, *supra* note 16, at 9; *see also* Philip Oliss, Comment, *Mandatory Minimum Sentencing: Discretion, The Safety Valve, and The Sentencing Guidelines*, 63 U. CIN. L. REV. 1851, 1851 (1995) (noting that Congress initially passed mandatory minimum sentences for pirates in 1790).

18. Luna & Cassell, *supra* note 16, at 29; *See generally* Mary Price, *Mandatory Minimums in the Federal System:Turning a Blind Eye to Justice*, 21 HUM. RTS. 8, 8 (2004) (contending that mandatory minimums violate the sentencing standards established by the American Bar Association); Michael Tonry, *The Mostly Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings*, 38 CRIME & JUST. 65, 65 (2009) (arguing that mandatory minimums offer no deterrent benefits and result in injustice and disparities in treatment of defendants).

19. Luna & Cassell, *supra* note 16, at 29; *see* Solem v. Helm, 463 U.S. 277 (1983); *see also* Nancy Keir, Note, Solem v. Helm*: Extending Judicial Review Under the Cruel and Unusual Punishments Clause to Require 'Proportionality' of Prison Sentences*, 33 CATH. U. L. REV. 479, 515 (1984) (asserting that the *Helm* opinion will promote uniformity in evaluations of claims under the Eighth Amendment). Just three years prior to *Solem*, the Court dismissed an Eighth Amendment challenge to a life sentence for a third time felony offender. *See* Rummel v. Estelle, 445 U.S. 263 (1980); *see also* Keir, *supra* note 19, at 480. Some scholars have argued that the proportionality test was created in 1910 by the Supreme Court; however, that case was based on the Philippine Bill of Rights, not the Eighth Amendment to the United States Constitution. Accordingly, *Helm* is the only Supreme Court case that has invalidated a disproportionate sentence under the Eighth Amendment. *See* Weems v. United States, 217 U.S. 349 (1910); Samuel Weiss, Note, *Into the Breach: The Case for Robust Non-Capital Proportionality Review Under State Constitutions*, 49 HARV. CIV. RTS. – CIV. LIBERTIES L. REV. 569, 570 (2014).

20. U.S. CONST. amend VIII; *Solem*, 463 U.S. at 284. To prevent the implementation of mandatory minimums in certain cases, some scholars have urged prosecutors to exercise their discretion to alter charges to prevent an offender from being subject to a mandatory minimum. *See* David Bjerk, *Making the Crime Fit the Penalty: The Role of Prosecutorial Discretion under Mandatory Minimum Sentencing*, J.L. & ECON. 591, 593 (2005).

21. *Solem*, 463 U.S. at 279–81, 303.

22. Luna, *supra* note 16, at 29; *see also* Ewing v. California, 538 U.S. 11 (2003) (holding that a repeat felon's sentence of twenty-five years was not disproportionate); Lockyer v.

invalidate required sentencing frameworks, the Supreme Court has granted deference to the federal and state legislative branches.[23]

Consequently, in 1984, hoping to curb mounting crime rates by removing repeat felonious offenders from society through the use of mandatory minimum sentences, Congress enacted the Armed Career Criminal Act as part of the Comprehensive Crime Control Act of 1984.[24] Originally calling for a life prison term for a third armed burglary or robbery, the Armed Career Criminal Act provided for a fifteen-year mandatory prison sentence for any habitual offender convicted of possessing a firearm after having previously been found guilty for three violent felonies or drug crimes.[25] Fearing that some wrongdoers might evade the enhanced sentencing because of differing state statutes for burglary and robbery, Congress expressly specified definitions for those crimes to promote equity of administration.[26]

Two years later, Congress amended the Armed Career Criminal Act by removing the definitions of battery and robbery, deleting robbery as an enumerated crime altogether, and creating broader, less definite categories of predicate offenses.[27] The amended Armed Career Criminal Act, which remains the law today, added new classifications for predicate offenses, of which two are relevant to the instant case.[28] First, Congress made "violent felonies" sentence-enhancing convictions, which it enumerated as a felony that includes: "burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another."[29] Second, Congress added that a felony that "has as an element the use, attempted use, or threatened use of physical force against the person of another" would also serve as a predicate offense.[30] However, the removal of the explicit mention of robbery as a predicate offense has spawned problems in interpretation that have forced courts to strain to determine the Act's legislative intent.[31]

Andrade, 538 U.S. 63 (2003) (holding that consecutive sentences of twenty-five years to life for a third strike conviction was not disproportionate); Harmelin v. Michigan, 501 U.S. 957, 961, 996 (1991) (ruling that a drug mule convicted of possessing 672 grams of cocaine could be subjected to a mandatory life sentence without the possibility of parole); Weiss, *supra* note 19, at 570–74.

23. *Harmelin*, 501 U.S. at 989–90 (quoting *Rummel*, 445 U.S. at 282).

24. Sheldon A. Evans, *Punishing Criminals for Their Conduct: A Return to Reason for the Armed Career Criminal Act*, 70 OKLA. L. REV. 623, 628–29 (2018).

25. *Id.* at 630.

26. *Id.* at 630–31.

27. *Id.* at 631.

28. *Id.*

29. 18 U.S.C. § 924(e)(2)(B)(ii).

30. *Id.* § 924(e)(2)(B)(i).

31. Evans, *supra* note 24, at 633.

The Supreme Court first endeavored to interpret the Armed Career Criminal Act in 1990.[32] In *Taylor v. United States*, Justice Harry Blackmun, writing for a unanimous majority, stated that Congress did not intend for the definition of burglary to be left to each specific state, but rather that it contain common, uniform elements that would allow for the fair administration of justice under the Armed Career Criminal Act.[33] Later, in 2007, the Court held that attempted burglary under Florida law qualified as a violent felony for purposes of the Armed Career Criminal Act.[34] The Court noted, "Congress' inclusion of a broad residual provision in clause (ii) indicates that it did not intend the preceding enumerated offenses to be an exhaustive list of the types of crimes that might present a serious risk of injury to others and therefore merit status as a…predicate offense."[35]

Shortly thereafter, the Supreme Court, in a critically important case, addressed the issue of the physical force required under the unenumerated provision of the Armed Career Criminal Act.[36] Justice Antonin Scalia, in *Johnson v. United States,* writing for a majority of the Court, defined the physical force required for a crime to be classified as a violent felony as "force capable of causing physical pain or injury to another person."[37] The Court added, "when the adjective 'violent' is attached to the noun 'felony,' its connotation of strong physical force is even clearer."[38] Finding the common-law requirement of only minimal force to commit battery to be a "comical misfit" in the context of a violent felony, the Court overturned an offender's sentence that was enhanced under the Armed Career Criminal Act for having a previous burglary conviction in Florida.[39]

In a recent opinion regarding the Armed Career Criminal Act, the Supreme Court, in another case entitled *Johnson v. United States*, without addressing the definition of physical force, declared the Act's so-called residual clause unconstitutionally vague.[40] The residual clause designated a violent felony as "burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another."[41] Justice Scalia, in the majority opinion, found the residual clause to violate the Due Process Clause of the Fifth Amendment

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32. Taylor v. United States, 495 U.S. 575 (1990).
33. *Id.* at 590, 598–99.
34. James v. United States, 550 U.S. 192, 200–01 (2007).
35. *Id.*
36. Johnson v. United States, 559 U.S. 133 (2010).
37. *Id.* at 140; *see also* United States v. Castleman, 572 U.S. 157, 163–65 (2014).
38. *Johnson*, 559 U.S. at 140.
39. *Id.* at 145.
40. Johnson v. United States, 135 S. Ct. 2551, 2557 (2015). For more on *Johnson*, *see* Crystal Etue, Johnson v. United States*: A Breach of the Social Contract?*, 43 S. U. L. REV. 269 (2016); Jesse D. H. Snyder, Johnson v. United States*: How the Unsung Opinion of June 26, 2015 Demonstrates that Inconsistent Judicial Application Evidences Unconstitutional Vagueness*, 57 S. TEX. L. REV. 103 (2015).
41. 18 U.S.C. § 924(e)(2)(B)(ii); *Johnson*, 559 U.S. at 136.

because the residual clause denied defendants of fair notice and required judges to engage in an arbitrary analysis of an offender's previous crimes.[42]

IV. THE PHYSICAL FORCE REQUIRED FOR A CRIME TO BE A VIOLENT FELONY UNDER THE ARMED CAREER CRIMINAL ACT IS THE FORCE SUFFICIENT TO OVERCOME THE RESISTANCE OF A VICTIM

In *Stokeling v. United States*, the United States Supreme Court held in a 5–4 decision that an offense that has a required element of the use of force sufficient to overcome the resistance of a victim meets the threshold of physical force to be classified as a violent felony under the Armed Career Criminal Act of 1984, and therefore triggers a sentence enhancement for applicable habitual offenders.[43] Justice Thomas wrote for the five-member majority, which included Justices Breyer, Alito, Gorsuch, and Kavanaugh, while Justice Sotomayor authored the dissent, of which The Chief Justice and Justices Ginsburg and Kagan joined.[44] The Court centered its decision on the common law definition of robbery, the legislative intent of Congress in passing the Armed Career Criminal Act and its subsequent amendment, and the historic statutory definition of robbery among the states.[45]

The opinion of the Court first recognized that the original Armed Career Criminal Act of 1984, prior to its amendment in 1986, provided a statutory definition for robbery, which stated, in pertinent part, "any felony consisting of the taking of the property of another from the person or presence of another by force or violence."[46] Justice Thomas acknowledged a clear parallel between this statutory definition and that of the common law crime of robbery.[47] The majority recalled that under the common law, the crime of robbery required an unlawful taking and violence, which the law defined as an act "committed [with] sufficient force…to overcome the resistance encountered."[48]

Furthermore, the Court pointed out that the common law often used the terms violence and force as if they were the same.[49] The common law definition of violence also did not contain varying levels of severity.[50] As such, if an offender used the force necessary to overcome the resistance of their victim, regardless of how slight such resistance might have been, the common law found the wrongdoer to have committed a violent act.[51]

42. *Johnson*, 135 S. Ct. at 2557.
43. Stokeling v. United States, 139 S. Ct. 544, 548 (2019).
44. *Id.*
45. *Id.* at 550–52.
46. *Id.* at 550 (citing 18 U.S.C. § 1202(c)(8) (1982 ed., Supp. II)).
47. *Id.*
48. *Id.* (citing 2 J. BISHOP, CRIMINAL LAW § 1156 (J. Zane & C. Zollman eds., 9th ed. 1923)).
49. *Stokeling*, 139 S. Ct. at 550.
50. *Id.*
51. *Id.*

Next, the Court turned to the modern legal uses of the words force and violence to determine if the terms are still interpreted and used in much the same manner as they were under the common law.[52] Relying on Black's Law Dictionary, Justice Thomas indicated that contemporary legal understanding of the term "force" is "[p]ower, violence, or pressure directed against a person or thing."[53] Similarly, the word "violence" in modern legal parlance involves "force, including an 'unjust or unwarranted use of force.'"[54] Consequently, the majority acknowledged little-to-no distinction between the two terms.[55]

Having determined that under the common law, and in contemporary legal parlance, violence and force were used interchangeably, the Court next considered the intent of Congress in using that phraseology in the Armed Career Criminal Act.[56] In the initial version of the Armed Career Criminal Act, Congress included a definition of "robbery as requiring the use of 'force' or 'violence,'" which the majority interpreted as "a clear reference to the common law of robbery."[57] Because the Court found the intent of Congress to make robbery under the Armed Career Criminal Act the same as it was under the common law, Justice Thomas articulated the standard for force or violence as: "[s]ufficient force must be used to overcome resistance…however slight the resistance."[58]

Addressing the 1986 amendment to the Armed Career Criminal Act, the Court recalled that Congress removed the explicit mention of robbery as an enumerated predicate offense.[59] Yet, in place of robbery, Congress inserted the so-called "elements clause" that enlarged the Armed Career Criminal Act to encompass acts that have an element of "the use, attempted use, or threatened use of physical force."[60] However, the majority did not view robbery's removal from the enumerated clause, and the subsequent insertion of the replacement term "physical force" in the elements clause as evidence that Congress intended to disregard the common law crime of robbery as a sentence-enhancing offense.[61] Rather, the Court reasoned that by keeping the term "physical force" in the statute, Congress deliberately intended that the common law definition of force for a robbery offense would still satisfy a mandatory minimum sentence under the Armed Career Criminal Act.[62] Justice Thomas rejected any suggestion that Congress desired to require a

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52. *Id.* at 551.
53. *Id.* (quoting *Force*, BLACK'S LAW DICTIONARY (7th ed. 1987)).
54. *Id.* (quoting *Violence*, BLACK'S LAW DICTIONARY (7th ed. 1987)).
55. *Id.*
56. Stokeling v. United States, 139 S. Ct. 544, 551 (2019).
57. *Id.*
58. *Id.* (quoting W. CLARK & W. MARSHALL, LAW OF CRIMES 553 (H. Lazell ed., 2d ed. 1905)).
59. *Id.* at 551.
60. *Id.* (quoting 18 U.S.C. § 924(e)(2)(B)(i)) (2018)).
61. *Id.* at 551–52.
62. *Id.*

heightened standard of force for a violent felony.[63] The Court found that "Congress made clear that 'force' retained the same common-law definition that undergirded the original definition of robbery adopted a mere two years earlier."[64]

Next, analyzing the general consensus of the states' definitions of robbery in 1986, Justice Thomas noted that "43 States measured force by this [common law] degree"[65] Therefore, the Court rationalized, that the intention of Congress when it amended the statute could not have been to exclude such an expansive majority of states' robbery laws from serving as predicate offenses.[66] Accordingly, the Court rejected Mr. Stokeling's suggested definition of the force necessary for a robbery offense to be classified as a violent felony: "force that is 'reasonably expected to cause pain or injury.'"[67]

Finally, the majority reconciled its ruling with that of the Court nine years earlier in *Johnson v. United States*.[68] Reciting the holding, Justice Thomas asserted that the Court in *Johnson* defined physical force under the Armed Career Criminal Act as "force capable of causing physical pain or injury to another."[69] Denying the Petitioner's assertion that *Johnson* barred a robbery statute that did not require substantial force from serving as a predicate offense for a sentence enhancement, the Court declared that any struggle between a wrongdoer and a victim, regardless of its severity, which leads to resistance is "capable of causing physical pain or injury to another."[70]

Therefore, the majority found that the physical force required for an offense to satisfy the elements clause of the Armed Career Criminal Act as a violent felony is force sufficient to overcome a victim's resistance.[71] The Court further concluded that the Florida robbery statute, under which the Petitioner was convicted, satisfied the definition provided by the majority in this opinion.[72] Accordingly, the Court affirmed the decision of the Eleventh Circuit in enhancing Mr. Stokeling's sentence under the Armed Career Criminal Act.[73]

In the dissenting opinion, Justice Sotomayor was joined by three other justices, including The Chief Justice, in writing that the majority in this case wrongfully declined to adhere to the definition of force that the Court

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63. Stokeling v. United States, 139 S. Ct. 544, 551–52 (2019).
64. *Id.*
65. *Id.* at 552.
66. *Id.*
67. *Id.* at 552, 554.
68. *Id.* at 552–53.
69. *Id.* at 553 (quoting Johnson v. United States, 559 U.S. at 133, 140 (2010)).
70. *Id.*
71. *Id.* at 555.
72. *Id.* at 544, 555 (2019).
73. *Id.*

articulated in *Johnson v. United States* just nine years earlier.[74] The dissent particularly took exception to the majority's understanding of the holding in *Johnson*.[75] Justice Sotomayor noted that the Court in *Johnson* defined the force needed for a crime to be a violent felony as necessitating "force that is 'violent,' 'substantial,' and 'strong'—'that is, force capable of causing physical pain or injury to another person.'"[76] Rather than honoring the Court's precedent, the dissent argued, the majority "slic[ed] *Johnson* up" by concentrating only on certain defining terms in that opinion.[77]

Further, the dissent asserted that by allowing even minimal force to satisfy the physical force element of the Armed Career Criminal Act, the majority distorted the intent of Congress.[78] According to Justice Sotomayor, lower level offenders who meet the definition of physical force adopted by the majority, but "who do not present the increased risk of gun violence that more aggravated offenders present," are not the wrongdoers that Congress desired to incapacitate for lengthy periods.[79]

Finally, the dissent disagreed with the majority's recitation of the legislative history of the Armed Career Criminal Act.[80] While the majority dismissed the idea that Congress' decision to remove the explicit mention of robbery as a predicate offense was indicative of the legislative branch's intent to require a heightened degree of force than that required by the common law, the dissent believed that Congress did desire an increased standard of force for a crime to be a violent felony.[81] As such, the minority found that statutory history did not favor a lesser standard of force than that articulated in *Johnson.*[82] Therefore, the dissent argued, Mr. Stokeling's previous robbery conviction should not have been classified as a violent felony as it did not meet the threshold of force articulated in the Supreme Court's decision in *Johnson*.[83]

The Supreme Court's decision in *Stokeling* represents an interest from a majority of the Court to grant broad authority to states in defining criminal offenses that ultimately may necessitate a mandatory minimum sentence in the future. Rather than restricting the definition of physical force as used in the Armed Career Criminal Act, or merely reasserting the definition provided in *Johnson*, the Court chose to provide greater latitude to the states in determining the parameters of their robbery statutes. Fearful of nullifying the effect of the Armed Career Criminal Act because many states' robbery

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74. Stokeling v. United States, 139 S. Ct. 544, 564–65 (2019) (Sotomayor, J., dissenting).

75. *Id.* at 557.

76. *Id.* (quoting Johnson v. United States, 559 U.S. 133, 140 (2010)).

77. *Id.*

78. *Id.* at 559.

79. *Id.*

80. *Id.* at 563.

81. *Id.* at 562–63.

82. *Id.*

83. *Id.* at 565.

laws might not meet a lesser definition of physical force, the majority chose to allow even the slightest of force, if met with any resistance, to serve as the force necessary to qualify an offense as a violent felony.

While the trend in the national debate appears to favor decreasing mandatory minimum sentences,[84] the Court here indicates no such desire. This case presented an opportunity for the Supreme Court to reduce the number of crimes that would qualify for a sentence enhancement, yet a thin majority, clinging to the definition of force provided by the common law rather than its own precedent from nine years earlier in *Johnson*, declined to seize this opportunity. Certainly, the dissent did not argue broadly against mandatory minimums or even the Armed Career Criminal Act, but it did recognize that the "Court should not allow a dilution of the term [robbery] in state law to drive the expansion of a federal statute targeted at violent recidivists."[85]

V. CONCLUSION

In *Stokeling v. United States*, the Supreme Court enlarged the definition of physical force as used in the elements clause of the Armed Career Criminal Act. The Court granted certiorari to determine the definition of physical force sufficient to classify an offense as a violent felony, and thus serve as a predicate offense triggering a sentence enhancement under the Armed Career Criminal Act. Writing for the majority, Justice Thomas, relying heavily on the common law and acknowledging the Court's previous holding in *Johnson v. United States*, defined physical force as the "force necessary to overcome a victim's resistance."[86] This decision represents the Court's desire to grant deference to state legislatures in determining the parameters of their states' robbery laws. Moreover, it indicates the majority's intent to demonstrate restraint when interpreting mandatory minimum sentencing laws. Overall, the Court's holding will invariably result in trial courts sentencing a greater number of habitual offenders under the Armed Career Criminal Act, as more crimes will now fit the definition of physical force required to classify an offense as a violent felony under the elements clause. Mandatory minimums often produce unjust results.[87] To

84. Luna, *supra* note 16, at 1–4; *see also* United States v. Young, 766 F.3d 621, 634 (6th Cir. 2014) (Stranch, J., concurring) ("I therefore join the continuous flood of voices expressing concern that the ACCA and other mandatory minimum laws are ineffective in achieving their purpose and damaging to our federal criminal justice system and our nation.").

85. Stokeling v. United States, 139 S. Ct. 544, 565 (Sotomayor, J., dissenting).

86. *Id.* at 555.

87. *See* Anjelica Cappellino & John Meringolo, *The Federal Sentencing Guidelines and the Pursuit of Fair and Just Sentences*, 77 ALB. L. REV. 771, 772, 811, 817 (2014) (contending that the federal prison population boomed as a result of mandatory minimums and that the mandatory minimums produce severe results); John S. Martin, Jr., *Why Mandatory Minimums Make No Sense*, 18 NOTRE DAME J.L. ETHICS & PUB. POL'Y 311, 312, 317 (2004) (arguing that mandatory minimums result in injustice and are "cruel, unfair, a waste of resources, and bad law enforcement."); Philip Oliss, *supra* note 17, at 1854 (noting that judges are powerless

make matters even worse, the effects of the stringent sentences overwhelmingly target minorities.[88] Unfortunately, the Court's decision in *Stokeling* only enlarges the number of individuals that will be subject to these mandatory sentences.

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to help when offenders receive unnecessarily harsh or burdensome sentences); Norman L. Reimer & Lisa M. Wayne, *From the Practitioners' Perch: How Mandatory Minimum Sentences and the Prosecution's Unfettered Control Over Sentence Reductions for Cooperation Subvert Justice and Exacerbate Racial Disparity*, 160 U. PENN. L. REV. PENNUMBRA 159, 160 (2011) (asserting that mandatory minimums only unjustly exacerbate the crimes they aim to prevent and turn offenders into career criminals); Danielle Snyder, *One Size Does Not Fit All: A Look At the Disproportionate Effects of Federal Mandatory Minimum Drug Sentences on Racial Minorities and How They Have Contributed to the Degradation of the Underprivileged African-American Family*, 36 HAMLINE J. PUB. L. & POL'Y 77, 83–85 (2014) (acknowledging that mandatory minimum sentences have prompted America's position as the largest jailer in the world and have disproportionately targeted poor minority communities).

88. Snyder, *supra* note 87, at 85.