

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MONICO DOMINGUEZ,
Defendant-Appellant.

No. 14-10268

D.C. No.
3:12-cr-00834-EMC-1

AMENDED ORDER

On Remand from the United States Supreme Court

Filed September 13, 2022

Before: Barry G. Silverman and Jacqueline H. Nguyen,
Circuit Judges, and Michael M. Anello,* District Judge.

Amended Order

* The Honorable Michael M. Anello, United States District Judge
for the Southern District of California, sitting by designation.

SUMMARY**

Criminal Law

In a case in which the Supreme Court vacated this court's decision filed April 7, 2020, and reported at 954 F.3d 1251 (9th Cir. 2020), the panel filed an amended order granting the government's motion to reinstate portions of the April 7, 2020, opinion, to the following extent:

The panel reversed the district court's judgment on Counts Four (money laundering) and Ten (possession of a firearm in furtherance of a crime of violence).

The panel affirmed—for the reasons explained in the April 7, 2020, opinion—on all remaining Counts: One, Eight (conspiracy to commit Hobbs Act robbery); Two (Hobbs Act robbery); Three (possession of a firearm in furtherance of crime of violence); and Nine (attempt to commit Hobbs Act robbery).

The panel remanded to the district court for resentencing consistent with *United States v. Taylor*, 596 U.S. —, 2022 WL 2203334 (June 21, 2022), which held that attempted Hobbs Act robbery does not qualify as a “crime of violence” under 18 U.S.C. § 924(c)(3)(A) because no element of the offense requires proof that the defendant used, attempted to use, or threatened to use force.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

COUNSEL

Gene D. Vorobyov, Law Office of Gene Vorobyov, San Francisco, California, for Defendant-Appellant.

Susan B. Gray and Ross D. Mazer, Assistant United States Attorneys; Matthew M. Yelovich, Chief, Appellate Section, Criminal Division; Stephanie M. Hinds, United States Attorney; United States Attorney's Office, San Francisco, California, for Plaintiff-Appellee.

Steven G. Kalar, Federal Public Defender; Todd M. Borden, Assistant Federal Public Defender; Office of the Federal Public Defender, San Francisco, California; for Amici Curiae Federal Defender Organizations of the Ninth Circuit.

ORDER

The government's opposed motion to reinstate portions of the panel's opinion (Docket Entry No. 156) is granted to the following extent:

The decision entered by this court in this matter, reported at 954 F.3d 1251 (9th Cir. 2020), was vacated by the Supreme Court of the United States. *See Dominguez v. United States*, — S.Ct. —, 2022 WL 2295021 (June 27, 2022). Accordingly, we now **REVERSE** the district court's judgment on Counts Four and Ten. We **AFFIRM** on all remaining counts for the reasons explained in our opinion reported at 954 F.3d 1251. We **REMAND** to the district court for resentencing consistent with *United States v. Taylor*, 596 U.S. —, 2022 WL 2203334 (June 21, 2022).

Appellant's motion for an order setting a supplemental briefing schedule (Docket Entry No. 151) is denied as moot.

AFFIRMED in part; REVERSED in part; and REMANDED.