**14.16 Firearms—Armed Career Criminal Act (18 U.S.C. § 924(e))**

**Comment**

The Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e)(1), provides that a defendant who violates 18 U.S.C. § 922(g) and has “three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another,” is subject to a fifteen-year mandatory minimum sentence. In *Erlinger v. United States*, 602 U.S. 821, 835 (2024), the Supreme Court held that a defendant charged with an enhanced mandatory minimum under the ACCA is constitutionally “entitled to have a jury resolve ACCA’s occasions inquiry unanimously and beyond a reasonable doubt.” The Court relied on *Wooden v. United States*, in which the Supreme Court previously held that “deciding whether those past offenses occurred on three or more different occasions is a fact-laden task” and involves questions such as “Were the crimes ‘committed close in time’? How about the ‘[p]roximity’ of their ‘location[s]’? Were the offenses ‘similar or intertwined’ in purpose and character?” *Erlinger*, 602 U.S. at 834 (quoting *Wooden v. United States*, 595 U.S. 360, 369 (2022)).

Considering the “multi-factored” nature of the separate occasions inquiry, the trial court should instruct the jury to consider the timing of the offenses, the proximity of each offense location, and the character and relationship of the offenses. *Wooden*, 595 U.S. at 369. As part of its instruction, the trial court could also advise the jury that

Offenses committed close in time, in an uninterrupted course of conduct, will often count as part of one occasion; not so offenses separated by substantial gaps in time or significant intervening events. Proximity of location is also important; the further away crimes take place, the less likely they are components of the same criminal event. And the character and relationship of the offenses may make a difference: The more similar or intertwined the conduct giving rise to the offenses—the more, for example, they share a common scheme or purpose—the more apt they are to compose one occasion.

*Id.*

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