

IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term 2017

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No. 17-5018

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STEVEN KLIKNO,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

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**On petition for Writ of Certiorari  
to the United States Court of Appeals  
for the Seventh Circuit**

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**PETITIONER'S SUPPLEMENTAL BRIEF**

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January 17, 2018

## **QUESTIONS PRESENTED FOR REVIEW**

Klikno was sentenced under the Armed Career Criminal Act (ACCA). He has a prior conviction for Illinois robbery and a prior conviction for Illinois residential burglary. If either one of these convictions does not qualify as an ACCA predicate, Klikno is serving an illegal sentence.

1. Illinois armed robbery makes “force” an element of the offense. Is “force” in the Illinois statute categorically equivalent to “force” as defined in ACCA?
2. Illinois residential burglary treats motor vehicles and boats, as well as other places not amounting to structures, as residences. Nor does Illinois burglary require breaking and entering. Is Illinois residential burglary the generic burglary required by ACCA?

## PETITIONER'S SUPPLEMENTAL BRIEF

Petitioner respectfully brings to the Court's attention new and additional authority bearing on the second question presented for review.

The Sixth Circuit in *United States v. Stitt*, 860 F.3d 854 (6th Cir. 2017) (en banc) considered a subpart of the issue raised in Klikno's second question. *Stitt* ruled that burglary of a vehicle is not generic burglary, not even when the vehicle is a habitation or dwelling. Although *Stitt* considered the question in the context of Tennessee burglary, its rationale would extend to the Illinois statute, which is raised in Klikno's case.

The government has sought certiorari in *Stitt*, No. 17-765, as well as in *United States v. Sims*, 854 F.3d 1037 (8th Cir. 2017), No. 17-766, a case that deals with the same issue and which was previously raised in Klikno's certiorari petition.

After Klikno filed his petition, the Seventh Circuit has issued a published opinion on this same issue, adopting the

dissent in *Stitt. Smith v. United States*, 877 F.3d 720 (7th Cir. 2017). Smith will be filing a petition for certiorari.

### CONCLUSION

Wherefore, it is respectfully requested that this Court grant a writ of certiorari to review the decision below.

Dated January 17, 2018, at Chicago, Illinois.

Respectfully submitted,

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