

No. 17-5018

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IN THE SUPREME COURT OF THE UNITED STATES

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STEVEN KLIKNO, PETITIONER

v.

UNITED STATES OF AMERICA

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 8-17) that the court of appeals erroneously held that his prior conviction for armed robbery in Illinois qualifies as a "violent felony" under the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e). He appears to argue that Illinois robbery may be committed by using force sufficient to overcome resistance, see, e.g., Pet. 11, and that it therefore does not "ha[ve] as an element the use, attempted use, or threatened use of physical force against the person of another." 18 U.S.C. 924(e)(2)(B)(i). The question petitioner presents is related to the issue currently before this Court in Stokeling v. United

States, cert. granted, No. 17-5554 (Apr. 2, 2018), which will address whether a defendant's prior conviction for robbery in Florida qualifies as a "violent felony" under the ACCA. Because the proper disposition of the petition for a writ of certiorari may be affected by the Court's resolution of Stokeling, the petition should be held pending the decision in Stokeling.

Petitioner further contends (Pet. 24-32) that the court of appeals erroneously held that his prior conviction for residential burglary in Illinois qualifies as a generic "burglary" and, thus, a "violent felony" under the ACCA, 18 U.S.C. 924(e)(2)(B)(ii). Specifically, petitioner argues (Pet. 32) that because the Illinois statute's locational element includes "mobile homes and trailers," as well as other places that "a resident occupies," it is "non-generic." The Court is currently considering a similar question in United States v. Stitt, cert. granted, No. 17-765 (Apr. 23, 2018), and United States v. Sims, cert. granted, No. 17-766 (Apr. 23, 2018), which will address whether burglary of a nonpermanent or mobile structure adapted or used for overnight accommodation qualifies as "burglary" under the ACCA. The petition for a writ of certiorari should also therefore be held pending the Court's decision in Stitt and Sims, and then disposed of as

appropriate in light of that decision and the decision in Stokeling.\*

Respectfully submitted.

NOEL J. FRANCISCO  
Solicitor General

MAY 2018

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\* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.