

No. 17-7941

IN THE SUPREME COURT OF THE UNITED STATES

TREMELL ARMSTEAD, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

NOEL J. FRANCISCO
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-7941

TREMELL ARMSTEAD, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

Petitioner, who pleaded guilty under Federal Rule of Criminal Procedure 11(c)(1)(C) to conspiracy to distribute and possess with intent to distribute one kilogram or more of heroin and received an agreed-upon sentence of 180 months of imprisonment, Pet. App. 1-2, contends (Pet. 12-16) that he is eligible for a sentence reduction under 18 U.S.C. 3582(c)(2). He argues that the court of appeals erred in concluding that he was ineligible by treating his eligibility for a reduction as controlled by Justice Sotomayor's opinion concurring in the judgment in Freeman v. United States, 564 U.S. 522, 534-544 (2011). On December 8, 2017, this Court

granted certiorari in Hughes v. United States, No. 17-155, to address whether Justice Sotomayor's concurring opinion in Freeman represents the holding of the Court concerning sentence reductions under Section 3582(c)(2) and whether defendants who pleaded guilty under Rule 11(c)(1)(C) are eligible for sentence reductions under Section 3582(c)(2). Because this Court's decision in Hughes will bear on the proper resolution of petitioner's case, the petition for a writ of certiorari should be held pending the resolution of Hughes and then disposed of as appropriate in light of the decision in that case.*

NOEL J. FRANCISCO
Solicitor General

MAY 2018

* The government waives any further response to the petition unless this Court requests otherwise.