

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Daryl Diemer,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**MOTION TO DEFER CONSIDERATION
OF THE PETITION FOR CERTIORARI**

Daryl Diemer requests that this Court defer consideration of his petition for certiorari until it decides the related petition in *Stokeling v. United States*, No. 17-5554. In support of this motion, Mr. Diemer states the following:

As this Court has already determined by granting certiorari in *Stokeling v. United States*, whether a state robbery conviction sustained by overcoming slight victim resistance satisfies the force clause, is a question of exceptional importance and is one that has divided the Courts of Appeals. *Stokeling v. United States*, No. 17-5554, 138 S.Ct. 1438 (Apr. 2, 2018). The petition for certiorari in *Stokeling* compellingly outlined why this Court will definitely resolve this legal issue regarding the force clause and state robbery offenses next term.

In his petition for certiorari, Mr. Diemer highlights why the “overcoming resistance” robbery issue that this Court will analyze in *Stokeling* based on Florida state law, is not meaningfully distinguishable from the Missouri state law robbery issue presented in Mr. Diemer’s case. Once one concludes that the two issues are

related, it necessarily follows that this Court should grant Mr. Diemer's motion to defer consideration of the petition for certiorari on this related issue. This Court routinely grants such "stay" motions, either formally or informally, so that this Court may decide another case first, before ruling on a related petition for certiorari. *See, for example, Brannon Taylor v. United States*, 16-8996 (staying petition for certiorari filed on May 1, 2017, until May 14, 2018 when it filed its GVR order remanding the case to the Eighth Circuit based on *Sessions v. Dimaya*, 138 S.Ct. 1204).

In his petition for certiorari, which is being filed contemporaneously with this motion, Mr. Diemer states further reasons why this Court should grant this motion to defer consideration (which will not needlessly be duplicated herein).

CONCLUSION

For the foregoing reasons, Mr. Diemer's motion to defer consideration of the petition for certiorari should be granted.

Respectfully submitted,

/s/ Dan Goldberg
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