

No. 18-7123

IN THE SUPREME COURT OF THE UNITED STATES

DERRICK MICHAEL ALLEN, SR., PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends that his conviction for possessing a firearm while subject to a restraining order, in violation of 18 U.S.C. 922(g)(8) and 924(a)(2), should be vacated on plain-error review because the jury instructions at his trial did not require a finding that petitioner knew he was subject to a restraining order. On January 11, 2019, this Court granted the petition for a writ of certiorari in Rehaif v. United States, No. 17-9560, to consider whether an alien who is illegally or unlawfully in the United States and knowingly possesses a firearm or ammunition "knowingly violates," 18 U.S.C. 924(a)(2), the federal prohibition against possession of a firearm or ammunition

by "an alien * * * illegally or unlawfully in the United States," 18 U.S.C. 922(g)(5)(A). Because the Court's decision in Rehaif may affect the proper disposition of the petition for a writ of certiorari, the petition in this case should be held pending the decision in Rehaif and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

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