

No. 19-5027

IN THE SUPREME COURT OF THE UNITED STATES

EDDIE DAVID COX, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 16-17) that his conviction for possessing a firearm as a felon, in violation of 18 U.S.C. 922(g)(1) and 924(a)(2), is infirm because the courts below did not recognize that knowledge of status is an element of that offense. In Rehaif v. United States, 139 S. Ct. 2191 (2019), this Court held that the mens rea of knowledge under Sections 922(g) and 924(a)(2) applies “both to the defendant’s conduct and to the defendant’s status.” Id. at 2194. Accordingly, the appropriate course is to grant the petition for a writ of certiorari, vacate the decision below, and remand the case for further consideration

in light of Rehaif. On remand, the court of appeals may consider, among other things, whether petitioner is entitled to consideration of his forfeited claim in the unusual collateral-review posture of this case.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

AUGUST 2019

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