

No. 19-5480

IN THE SUPREME COURT OF THE UNITED STATES

ANDREW DORSEY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH 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. 19-5480

ANDREW DORSEY, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 5-6) that the court of appeals erred in denying a certificate of appealability on his claim that his prior Florida convictions for selling or delivering cocaine and possessing cocaine with intent to sell or deliver, in violation of Fla. Stat. § 893.13(1)(a)(1) (2005 & 2008), do not qualify as “serious drug offense[s]” under the Armed Career Criminal Act of 1984, 18 U.S.C. 924(e)(2)(A)(ii). Specifically, petitioner argues (Pet. 6) that only state drug offenses that categorically match the elements of a “generic” analogue satisfy Section 924(e)(2)(A)(ii), and that his Florida drug convictions do not match the generic

analogue because the Florida drug statute does not contain a mens rea element with respect to the illicit nature of the substances. This Court has granted review in Shular v. United States, No. 18-6662 (June 28, 2019), to address that issue. The petition for a writ of certiorari should therefore be held pending the decision in Shular and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

SEPTEMBER 2019

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