

No. 19-5480

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IN THE SUPREME COURT OF THE UNITED STATES

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ANDREW DORSEY, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES

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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

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