

No. 19-5923

IN THE SUPREME COURT OF THE UNITED STATES

JAMAAR DANGLO HAYES, 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

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Petitioner contends (Pet. 4-5) that his prior Florida convictions for (1) delivering cocaine, (2) delivering a controlled substance within 1000 feet of a school and possessing cocaine with intent to sell or deliver, and (3) delivering cocaine within 1000 feet of a school, all in violation of Fla. Stat. § 893.13(1)(a) (2002), § 893.13(1)(c) (2006), and § 893.13(1)(e) (2003), 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. 3) 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

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