

IN THE
Supreme Court of the United States

JAMAAR DANGLO HAYES,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit**

SUPPLEMENTAL BRIEF OF PETITIONER

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SUPPLEMENTAL BRIEF OF PETITIONER

Petitioner Jamaar Hayes respectfully addresses his pending petition for a writ of certiorari in light of this Court's decision in *Shular v. United States*, No. 18-6662, 2020 WL 908904 (U.S. Feb. 26, 2020).

In *Shular*, this Court did not reach the alternative question whether, even if the definition of a "serious drug offense" in the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(2)(A)(ii), "does not call for a generic-offense-matching analysis, it requires knowledge of the substance's illicit nature." *Shular*, 2020 WL 908904, at *7 n.3. The Court declined to reach this question, because Mr. Shular had not included it in his petition's question presented and then had expressly disclaimed this argument in his supplemental brief filed at the certiorari stage. *Id.*

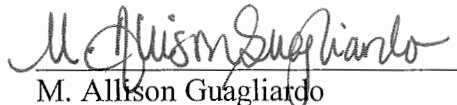
Mr. Hayes, unlike Mr. Shular, has never disclaimed this alternative argument. Before the Eleventh Circuit, Mr. Hayes contended that § 924(e)(2)(A)(ii) should be interpreted to require the *mens rea* that the defendant know the illicit nature of the substance, citing this Court's precedent interpreting statutes to include *mens rea*. See Initial Brief of Appellant Hayes, No. 18-13435-DD, 2018 WL 6248419, at *30-*32 (11th Cir. Nov. 28, 2018) (citing *Staples v. United States*, 511 U.S. 600, 618-19 (1994); *McFadden v. United States*, 135 S. Ct. 2298, 2302, 2305 (2015); *Elonis v. United States*, 135 S. Ct. 2001, 2009 (2015)). When Mr. Hayes filed his petition for a writ of certiorari, this Court had already granted certiorari in *Shular*. Mr. Hayes' petition accordingly focused on the question presented in *Shular*. The government filed a memorandum agreeing that Mr. Hayes' petition should be held pending *Shular* and waived any further response unless the Court requested it.

In light of the open question concerning the proper interpretation of the § 924(e)(2)(A)(ii), Mr. Hayes respectfully asks for this Court's review of this alternative question in his case. He presented the question below and has not disclaimed reliance on the argument at this certiorari stage.

This statutory interpretation question is important, recurring, and currently pending before this Court in *Hunter v. United States*, No. 18-7105 (distributed for the Court's conference of February 28, 2020). Mr. Hayes humbly seeks this Court's review.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "M. Allison Guagliardo", is written over a horizontal line.

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