

No. 19-6504

IN THE SUPREME COURT OF THE UNITED STATES

FRANKLIN ROOSEVELT MCGEE, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 7-18) that his prior convictions for aggravated assault under Tenn. Code Ann. § 39-2-101(b) (1984) and Tenn. Code Ann. § 39-13-102(a)(1) (2002) do not qualify as violent felonies under the Armed Career Criminal Act of 1984, 18 U.S.C. 924(e)(2)(B)(i), on the theory that an offense that can be committed with a mens rea of recklessness does not include as an element the “use, attempted use, or threatened use of physical force against the person of another.” This Court has granted review in Walker v. United States, cert. granted, No. 19-373 (Nov. 15, 2019), to address that question. The petition for a writ of certiorari should therefore be held pending this Court’s decision

in Walker 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.