

No. 19-7479

IN THE SUPREME COURT OF THE UNITED STATES

BRIAN PRICE, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

NOEL J. FRANCISCO
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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Petitioner contends (Pet. 4-12) that the district court violated his Fifth and Sixth Amendment rights by considering conduct underlying a charge that the district court at a bench trial had not found beyond a reasonable doubt, but had found by a preponderance of the evidence, in calculating his advisory Sentencing Guidelines range. For the reasons stated in the government's brief in opposition to the petition for a writ of certiorari in Asaro v. United States, No. 19-107 (filed Nov. 12, 2019), a copy of which the government is serving on petitioner, that contention lacks merit and does not warrant further review. See Br. in Opp. at 7-15, Asaro, supra (No. 19-107). The Court

recently denied the petitions for writs of certiorari in Asaro v. United States, No. 19-107 (Feb. 24, 2020), and several other cases raising similar issues, e.g., Knight v. United States, No. 19-6265 (Feb. 24, 2020); Martinez v. United States, No. 19-5346 (Feb. 24, 2020); Michigan v. Beck, No. 19-564 (Feb. 24, 2020). The same result is warranted here, particularly because the court below found that petitioner had affirmatively waived his arguments on this issue, as well as the other issues he presented on appeal. See Pet. App. 3a-4a.*

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.