

No. 19-7684

IN THE SUPREME COURT OF THE UNITED STATES

JEREMY GLENN POWELL, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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

IN THE SUPREME COURT OF THE UNITED STATES

No. 19-7684

JEREMY GLENN POWELL, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 5-17) that his prior convictions for robbery under Tex. Penal Code Ann. § 29.02(a) (West 1994) 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 Borden v. United States, No. 19-5410 (Mar. 2, 2020), to address that question. The petition for a writ of

certiorari should therefore be held pending the decision in Borden and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

APRIL 2020

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