

No. 19-8414

IN THE SUPREME COURT OF THE UNITED STATES

ASHFORD JAMES SIMMONS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH 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. 6-18) that the court of appeals erred in determining that his prior South Carolina convictions for distributing cocaine, in violation of S.C. Code Ann. § 44-53-370(b)(1) (2008), and distributing cocaine base, in violation of S.C. Code Ann. § 44-53-375 (2010), are “serious drug offense[s]” under the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e)(2)(A)(ii), and “controlled substance offense[s]” under Sentencing Guidelines § 4B1.2(b) (2016). For the reasons stated on pages 8 to 13 of the government’s brief in opposition to the petition for a writ of certiorari in Furlow v. United States, No.

19-7007 (filed Apr. 24, 2020), cert. granted, vacated, and remanded, 2020 WL 2814768 (June 1, 2020), a copy of which is being served on petitioner, those contentions lack merit and do not warrant this Court's review.¹ The Court recently has denied review of multiple petitions presenting similar issues. See Adams v. United States, No. 19-7706 (June 1, 2020); Hunt v. United States, No. 19-6939 (June 1, 2020); Marsh v. United States, No. 19-774 (June 1, 2020); Brown v. United States, No. 19-7972 (May 4, 2020). The same result is warranted here.²

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

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¹ In Furlow, this Court granted the petition for a writ of certiorari, vacated the judgment of the court of appeals, and remanded for further consideration in light of Rehaif v. United States, 139 S. Ct. 2191 (2019). Rehaif addressed the requisite mens rea for the status element of a federal offense in violation of 18 U.S.C. 922(g); it did not involve any question about whether a prior state conviction qualifies as a predicate offense under the ACCA or the Sentencing Guidelines. Petitioner has not raised a claim under Rehaif, which was decided during the pendency of appellate briefing below, either in the court of appeals or in his petition for a writ of certiorari here.

² The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.