

No. 20-302

IN THE
Supreme Court of the United States

STEVEN DOTSON,

Petitioner,

v.

UNITED STATES,

Respondent.

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

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner Steven Dotson respectfully suggests that there are “intervening circumstances of a substantial . . . effect” that arose subsequent to the filing of Petitioner’s petition for writ of certiorari, and that these intervening circumstances militate in favor of granting rehearing and holding this petition in abeyance pending disposition of *Tribue v. United States*, No. 20-6054 (U.S.). As grounds for this petition for rehearing, Petitioner states the following:

1. On October 13, 2020, the Court denied Petitioner’s petition for writ of certiorari,¹ which presented the following merits question: “If a defendant successfully challenges on collateral review one or more of the predicate convictions that the district court relied on to impose a sentence enhancement under the Armed Career Criminal Act (ACCA), may the Government substitute new predicate convictions on collateral review that it did not invoke at sentencing in order to maintain the ACCA enhancement?” Pet. for Writ of Cert. at i, *Dotson v. United States*, No. 20-302 (U.S. Sept. 4, 2020).

2. After Petitioner filed his petition for writ of certiorari but before the Court denied it, Alex Tribue also filed a petition for writ of certiorari seeking review of the Eleventh Circuit’s decision in *Tribue v.*

¹ In accordance with the Court’s Rules, this petition for rehearing is filed within 25 days of denial of certiorari in Petitioner’s case. See Sup. Ct. R. 30.1, 44.2.

United States, 929 F.3d 1326 (11th Cir. 2019). See Pet. for Writ of Cert., *Tribue*, No. 20-6054.

3. Mr. Tribue’s petition presents a merits question that is substantively identical to the merits question raised by Petitioner: “Whether, on collateral review, the government may maintain a sentencing enhancement under the ACCA by substituting a different conviction that it did not provide the defendant with notice of at the original sentencing.” *Id.* at i.

4. That the two petitions raised substantively identical questions is unsurprising: The Seventh Circuit’s decision in *Dotson* expressly discussed (and disagreed with) the Eleventh Circuit’s decision in *Tribue*, see *Dotson v. United States*, 949 F.3d 317, 321 (7th Cir. 2020); in turn, the dissent from the Eleventh Circuit’s denial of rehearing *en banc* in *Tribue* noted that *Tribue* conflicts with *Dotson*, see *Tribue v. United States*, 958 F.3d 1148, 1151, 1155, 1157 (11th Cir. 2020). In other words, both cases are part of the same circuit split.

5. The Court may have denied Petitioner’s petition for writ of certiorari because of a preference to address the same issue in a case like *Tribue*.

6. The Solicitor General waived a response in *Tribue* on October 21, 2020, and the Court is scheduled to consider Mr. Tribue’s petition at its Conference on November 13, 2020.

7. If the Court calls for a response from the Solicitor General, Petitioner respectfully requests that it simultaneously hold Petitioner’s petition in abeyance pending the disposition of *Tribue*. Cf. *Lindsey v. United States*, 140 S. Ct. 2801 (2020)

(granting petition for writ of certiorari, vacating judgment, and remanding case for further consideration in light of *Davis v. United States*, 140 S. Ct. 1060 (2020)); *Langston v. United States*, 576 U.S. 1080 (2015) (granting petition for writ of certiorari, vacating judgment, and remanding case for further consideration in light of *Johnson v. United States*, 576 U.S. 591 (2015)).

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant rehearing of its order denying the petition for writ of certiorari, vacate that order, and hold this case in abeyance pending resolution of *Tribue v. United States*, No. 20-6054.

November 9, 2020

Respectfully submitted,

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CERTIFICATE OF COUNSEL

Pursuant to Rule 44.2, I, Donald L. R. Goodson, counsel for petitioner Steven Dotson, hereby certify that the petition for rehearing is restricted to the grounds specified in Rule 44.2. I further certify that the petition for rehearing is presented in good faith and not for delay.

November 9, 2020

/s/ Donald L. R. Goodson
Donald L. R. Goodson