

**FEDERAL PUBLIC DEFENDER**

**District of Arizona**

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December 3, 2020

***Sent via FedEx***

Clerk of the Court  
United States Supreme Court  
1 First Street, N.E.  
Washington, D.C. 20543

RE: *Israel Torres v. United States of America*, No. 20-5579

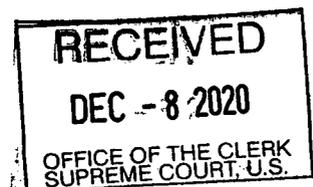
Dear Clerk of the Court:

On August 27, 2020, this Court filed Petitioner Israel Torres' petition for a writ of certiorari raising the following question:

May an individual charged with violating a law barring the possession of firearms by felons bring an as-applied Second Amendment challenge to his prosecution?

Pet. (Question Presented). Mr. Torres' petition cited numerous opinions demonstrating that this question is the subject of divisions among federal circuit courts and state courts of last resort, as well as between judges on individual appellate courts. Pet. 11-17.

After the briefing relating to Mr. Torres' petition was completed, another such opinion was issued: The Third Circuit's divided panel opinion in *Folajtar v. Attorney General*, --- F.3d --, 2020 WL 6879007 (3d Cir. Nov. 24, 2020). In *Folajtar*, the panel members divided sharply over the question of whether an individual's conviction for federal tax fraud could be deemed an adequate predicate for stripping her of her Second Amendment right, with the majority accepting a virtue-based analysis focusing on the offense's seriousness, and the dissenting judge rejecting that model in favor of a dangerousness analysis relying heavily on then-Judge Barrett's dissenting opinion in *Kanter v. Barr*, 919 F.3d 437 (7th Cir. 2019). Compare *Folajtar*, --- F.3d at ---, 2020 WL 6879007 at \*9 with *id.* at \*13-\*14, \*19 (Bibas, J., dissenting) (*citing Kanter*, 919 F.3d at 453-64 (Barrett, J., dissenting)).



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Mr. Torres respectfully submits that the divided *Folajtar* opinion further demonstrates the pressing need for this Court to address the question presented in his petition. In addition, Mr. Torres respectfully suggests that, if the Court is not inclined to grant his petition, it hold his petition pending its resolution of a possible petition for certiorari in *Folajtar* (as well as *Holloway v. Attorney General*, 948 F.3d 164 (3d Cir. 2020) (Pet. 28)).

Sincerely,

*s/ Daniel L. Kaplan*

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