

**FEDERAL DEFENDER SERVICES  
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**BY U.S. MAIL AND ELECTRONIC FILING**

December 2, 2020

Honorable Scott S. Harris, Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: *McClurg et al. v. United States*, No. 20-6220

Dear Mr. Harris:

This letter is to update the Court regarding a development relevant to the petitioners' pending joint petition for certiorari. The petitioners here ask the Court to either grant review in their case or hold their petition pending the Court's review in another case, *Yerkes v. United States*. *Yerkes* is a direct appeal addressing the same broad issue presented here—whether a state statute that defines burglary in a way that is broader than how the majority of states and the common law defined burglary in 1986 qualifies as “generic burglary” under the Armed Career Criminal Act, 18 U.S.C. § 924(e). A decision in favor of the petitioner in *Yerkes* would require remand in petitioners' case as well.

At the time the joint petition for certiorari was filed in this case, Mr. Yerkes had not yet filed his petition. It has since been filed and is docketed as case number 20-6450.

The petitioners respectfully request that this letter be circulated to the Court ahead of its conference in this case scheduled for this Friday, December 4, 2020.

Sincerely,

FEDERAL DEFENDER SERVICES  
OF EASTERN TENNESSEE, INC.

By: *s/ Erin Rust*  
Erin Rust  
Assistant Federal Defender

cc: Jeffrey B. Wall, Esq. (by U.S. Mail)