

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER MIKELINICH AND JEFFREY KEITH, PETITIONERS

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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No. 20-6347

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MEMORANDUM FOR THE UNITED STATES

Petitioners contend (Pet. 5-7) that their convictions following guilty pleas for possessing a firearm as a felon, in violation of 18 U.S.C. 922(g)(1), should be vacated on plain-error review because knowledge of felon status was not understood to be an element of that offense during the proceedings in the district court. See Rehaif v. United States, 139 S. Ct. 2191 (2019). On January 8, 2021, this Court granted the petition for a writ of certiorari in United States v. Gary, No. 20-444, to consider whether plain-error relief is automatically available in such a circumstance. Because the Court's decision in Gary may affect the proper disposition of the petition for a writ of certiorari, the

petition in this case should be held pending the decision in Gary and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

JEFFREY B. WALL
Acting Solicitor General

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