No. _____

In the

Supreme Court of the United States

SAVANNAH SIFUENTES,
PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT,

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

J. MATTHEW WRIGHT
* *COUNSEL OF RECORD*
FEDERAL PUBLIC DEFENDER'S OFFICE
NORTHERN DISTRICT OF TEXAS
500 SOUTH TAYLOR STREET, SUITE 110
AMARILLO, TEXAS 79101
(806) 324-2370
MATTHEW_WRIGHT@FD.ORG

QUESTIONS PRESENTED

1.

Whether a defendant who unsuccessfully moves to dismiss an indictment for failure to allege an essential element of the crime waives or forfeits the argument that the omitted allegation is an element by entering an unconditional guilty plea to the challenged indictment.

2.

Whether the district court committed reversible error when it convicted Petitioner under 18 U.S.C. § 922(g)(1) when the grand jury did not allege, the Court did not find, and Petitioner did not admit that she knew of her prohibited status at the time of the offense.

PARTIES TO THE PROCEEDING

The parties to the proceeding are named in the caption.

DIRECTLY RELATED PROCEEDINGS

1. *United States v. Savannah Sifuentes*, No. 5:18-CR-111 (N.D. Tex.)

2. *United States v. Savannah Sifuentes*, No. 19-10621 (5th Cir.)

TABLE OF CONTENTS

PETITION APPENDIX

Table of Authorities

Cases

Statutes

Rules

PETITION FOR A WRIT OF CERTIORARI

Petitioner Savannah Sifuentes asks this Court to issue a writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The Fifth Circuit's opinion in this case was not selected for publication. It can be found at 811 F. App'x 905 and is reprinted in the Appendix to this Petition.

JURISDICTION

The Fifth Circuit issued its opinion and judgment on July 8, 2020. App, *infra*, 1a–4a. On March 19, this Court extended the deadline to file certiorari to 150 days from the date of the judgment. This Court has jurisdiction to review the Fifth Circuit's final decision under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

This case involves the interpretation and application of 18 U.S.C. §§ 922(g) and 924(a)(2) and Federal Rules of Criminal Procedure 51 and 52. Those provisions provide, in pertinent part:

18 U.S.C. § 922(g):

> It shall be unlawful for any person--
>
> > (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
> >
> > (2) who is a fugitive from justice;
> >
> > (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
> >
> > (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 924(a)(2):

> (2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

Federal Rules of Criminal Procedure:

> Rule 51. Preserving Claimed Error
>
> (a) Exceptions Unnecessary. Exceptions to rulings or orders of the court are unnecessary.
>
> (b) Preserving a Claim of Error. A party may preserve a claim of error by informing the court—when the court ruling or order is made or sought—of the action the party wishes the court to take, or the party's objection to the court's action and the grounds for that objection. If a party does not have an opportunity to object to a ruling or order, the absence of an objection does not later prejudice that party. A ruling or order that admits or excludes evidence is governed by Federal Rule of Evidence 103.
>
> Rule 52. Harmless and Plain Error
>
> (a) Harmless Error. Any error, defect, irregularity, or variance that does not affect substantial rights must be disregarded.
>
> (b) Plain Error. A plain error that affects substantial rights may be considered even though it was not brought to the court's attention.

STATEMENT OF THE CASE

In July, 2019, undercover police officers in Lubbock, Texas met with petitioner Savannah Sifuentes on the pretense that they intended to purchase some rifles from her. App., *infra*, 14a. When she showed up with the rifles, they arrested her. *Ibid.* She had previously pleaded guilty in Texas state court to possession of an illegal weapon (a short-barrel shotgun). App., *infra*, 17a, 26a. But she did not serve any prison time for that conviction. A federal grand jury charged her with possessing a firearm after felony conviction in violation of 18 U.S.C. §§ 922(g) & 924(a)(2).

The indictment alleged that she had "previously been convicted of a crime punishable by a term of imprisonment exceeding one year," but it did not allege that she *knew* she had been convicted of that kind of crime. App., *infra*, 5a. Many years before, the Fifth Circuit had (erroneously) held that this fact—knowledge of status—was not an element of the crime. *See*, e.g., *United States v. Dancy*, 861 F.2d 77, 81–82 (5th Cir. 1977). Petitioner disagreed with the prevailing view, so she filed a motion to dismiss the indictment. App., *infra*, 7a–13a. She argued that knowledge-of-status was an essential element of the crime, and by failing to assert that fact, the indictment failed to allege a federal offense. App., *infra*, 11a–13a. The district court, following Fifth Circuit precedent, denied her motion. App., *infra*, 14a.

Ms. Sifuentes then entered an unconditional guilty plea to the offense charged in the indictment. She did not waive her right to appeal. App. 19a–25a. She signed a factual stipulation admitting that her previous conviction was for an offense punishable by more than one year in prison, but did not admit that she knew that fact on the date she possessed the rifles. App., *infra*, 16a–18a. The district court accepted her plea, pronounced her guilty, and ultimately sentenced her to 51 months in prison. App., *infra*, 1a. The district court never advised Ms. Sifuentes that knowledge of status was, in fact, an element of this offense, nor did it find that she harbored that knowledge on the day she tried to sell the rifles.

While her direct appeal was pending, this Court vindicated her knowledge-of-status argument in *Rehaif v. United States*, 139 S. Ct. 2191 (2019): "To convict a defendant, the Government therefore must show that the defendant knew he

possessed a firearm and also that [s]he knew [s]he had the relevant status when [s]he possessed it." *Id.* at 2194. Even so, the Fifth Circuit affirmed. App., *infra*, 4a.

Regarding her motion to dismiss the indictment, the Fifth Circuit held that Ms. Sifuentes *waived* her challenge when she pleaded guilty. App., *infra*, 3a (citing *United States v. Lavalais*, 960 F.3d 180, 186 (5th Cir. 2020)). As for the problems with the guilty plea itself, the court decided that it would review only for plain error. App., *infra*, 2a. The court acknowledged that she had "unsuccessfully raised" the knowledge-of-status issue "in her motion to dismiss the indictment," but faulted her for failing to raise "further objection" during the guilty-plea proceedings:

> Although Sifuentes contends that objecting to the factual basis would have been futile because she unsuccessfully raised the same issue in her motion to dismiss the indictment, she cites nothing in the record to indicate that further objection, although foreclosed under existing caselaw, would have been unwelcome or that the district court would not have entertained it.

App., *infra*, 2a.

Reviewing the plea-proceedings for plain error, the Fifth Circuit first decided that it was "reasonably disputable" whether Ms. Sifuentes was factually innocent of the offense—that is, whether she "was aware of her prohibited status at the time she possessed the instant firearm." App., *infra*, 2a–3a. On that point, the court considered a "state-court judgment" presented by the U.S. Probation Officer during the federal sentencing reflecting that Ms. Sifuentes "was sentenced to 10 years of imprisonment suspended for four years of community supervision and admonished in accordance with state law." App., *infra*, 2a–3a, 26a. From that, the Fifth Circuit inexplicably decided that it was "reasonably disputable that the district court did not err in

accepting Sifuentes's guilty plea," despite the fact that the court itself did not look into the issue, nor did it advise Ms. Sifuentes that knowledge-of-status was a true element of the offense. App. 3a. The court also noted that Ms. Sifuentes did not argue that the plea-stage errors affected her substantial rights or "the fairness, integrity or public reputation of judicial proceedings," as would be required for relief under the plain-error standard. App. 3a; *see Puckett v. United States*, 556 U.S. 129, 135 (2009). Because she preserved her legal objection in her motion to dismiss, she did not believe plain-error review was appropriate. This timely petition follows.

REASONS TO GRANT THE PETITION

I. THE COURT SHOULD GRANT THE PETITION AND HOLD THAT AN UNCONDITIONAL GUILTY PLEA TO AN INDICTMENT DOES NOT WAIVE AN OTHERWISE PRESERVED CHALLENGE THAT THE INDICTMENT DOES NOT STATE A FEDERAL OFFENSE.

Ms. Sifuentes moved to dismiss her indictment for felon-in-possession because it did not allege that she knew of her status as a felon at the time she possessed the firearm. App., *infra*, 11a–13a. She argued that knowledge-of-status was an essential element, but acknowledged that the argument was foreclosed by Fifth Circuit precedent. *Ibid.* She sought to "preserve the issue for further review, either with the Fifth Circuit *en banc*, or with the Supreme Court." App., *infra*, 1a. Once she secured a ruling on the issue, she pleaded guilty. This Court later vindicated her argument: knowledge-of-status *is* an element of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). *Rehaif*, 139 S. Ct. at 2194. The Fifth Circuit should have reversed the denial under plenary review, but instead the court decided that Ms. Sifuentes's plea "waived" her argument

about the indictment and failed to preserve plenary review regarding her guilty plea. App., *infra*, 3a. The Fifth Circuit was wrong.

A. Under the rationale of *Class v. United States*, a guilty plea does not waive a claim that the indictment fails to state a federal offense.

It is undisputed that an unconditional "guilty plea bars appeal of many claims, including some 'antecedent constitutional violations' related to events (say, grand jury proceedings) that had 'occurred prior to the entry of the guilty plea.'" *Class v. United States*, 138 S. Ct. 798, 803 (2018) (quoting *Blackledge v. Perry*, 417 U.S. 21, 30 (1974)). But a guilty plea does not waive *all* challenges to the prosecution. *See Blackledge*, 417 U.S. at 29–30 (vindictive prosecution); *Class*, 138 S. Ct. at 802 (constitutional challenge to statute); *Menna v. New York*, 423 U.S. 61, 63 (1975) (double jeopardy). Under this Court's precedent, all of these challenges survive an unconditional guilty plea.

The recent decision in *Class* should resolve this issue in Ms. Sifuentes's favor. There, as here, the defendant unsuccessfully moved to dismiss his indictment. 138 S. Ct. at 802. The defendant later agreed to plead guilty; his plea agreement neither expressly waived nor expressly reserved the right to appeal the district court's constitutional determination. *Id.* This Court held that his plea agreement did not waive his constitutional challenge to the statute of conviction.

Under the reasoning of *Class*, and the authorities cited, a guilty plea does not bar a claim that "the facts alleged and admitted do not constitute a crime against the laws of the" relevant jurisdiction. *Class*, 138 S. Ct. at 804 (quoting *Commonwealth v.*

Hinds, 101 Mass. 209, 210 (1869)). While a guilty plea waives any challenge to the *process* that produced the indictment, it does not waive a challenge that the indictment itself fails to allege an offense:

> "The plea of guilty is, of course, *a confession of all the facts charged in the indictment, and also of the evil intent imputed to the defendant*. It is a waiver also of all merely technical and formal objections of which the defendant could have availed himself by any other plea or motion. *But if the facts alleged and admitted do not constitute a crime against the laws of the Commonwealth*, the defendant is entitled to be discharged."

Class, 138 S. Ct. at 804 (quoting *Hinds*,101 Mass. at 210) (emphasis added). In addition to *Hinds*, this Court also approvingly cited *Hocking Valley Ry Co. v. United States*, 210 F. 735, 738 (6th Cir. 1914), which held that "a defendant may raise the claim that, because the indictment did not charge an offense no crime has been committed." *Class*, 138 S. Ct. at 804.

The indictment challenge Ms. Sifuentes sought to raise below does "not contradict the terms of the indictment or the written plea agreement." *Id.* (quoting *United States v. Broce*, 488 U.S. 563, 575 (1989)). She and the Government had a dispute about the proper interpretation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). In the Government's view—later adopted by the district court—it need not prove she had knowledge of her status at the time she possessed the gun. In her view, that fact was an essential element of the offense. Once the district court ruled against her, she had neither an incentive nor an opportunity to dispute her knowledge. She admitted that she was guilty of all the other elements of the offense.

The guilty plea did not waive the indictment claim because she can "'prove [her] claim by relying on [the] indictment[ ] and the existing record' and 'without

contradicting th[e] indictment[ ].'" *Class*, 138 S. Ct. at 804 (quoting *Broce*, 488 U.S. at 576. Her argument "is consistent with [her] knowing, voluntary, and intelligent admission that [s]he did what the indictment alleged," and the claim "can be 'resolved without any need to venture beyond that record.'" *Class*, 138 S. Ct. at 804. Under the reasoning of *Class*, then, she did not waive the right to appeal this adverse determination.

The same logic applies to the plea itself. She was not required to raise an "exception" to the district court's statutory interpretation ruling. Fed. R. Crim. P. 51(a). She had already expressed an intent to "preserve" the issue for appellate review. App., *infra*, 7a. There would be little or no point in requiring her to remind the district court of all of the implications of her legal argument—that it must advise her knowledge was an element; that the Government would have to prove that fact to convict at trial; that the district ocurt must find a factual basis for that element. All of those arguments depend upon the premise already (erroneously) rejected: that knowledge-of-status was, in fact, an element of the offense.

B. The Fifth Circuit's contrary view will lead to a waste of judicial resources.

In *United States v. Lavalais*, 960 F.3d 180, 186 (5th Cir. 2020), the Fifth Circuit held in that a defendant "failed to preserve" a challenge to the indictment "by pleading guilty." It is not clear from the opinion whether Lavalais ever moved to dismiss the indictment on that basis. *See id.* at 184 ("Prior to *Rehaif*, countless felons pleaded guilty under § 922(g)(1) *without ever objecting that the Government should be required to prove they knew they were convicted felons*.") (emphasis added). But Ms.

Sifuentes did, and the Fifth Circuit cited *Lavalais* in holding that Ms. Sifuentes waived her otherwise preserved indictment challenge. App., *infra*, 3a.

If the Fifth Circuit's view is correct, then defendants in Ms. Sifuentes's position will be required to re-object at every stage of the proceedings, even after the district court has conclusively rejected their statutory interpretation argument. This Court has previously refused to rule in a way that "would result in counsel's inevitably making a long and virtually useless laundry list of objections to rulings that were plainly supported by existing precedent." *Johnson v. United States*, 520 U.S. 461, 468 (1997). It should do the same here.

Ms. Sifuentes's motion to dismiss told the district court the action she wanted it to take: dismiss the indictment. Fed. R. Crim. P. 51(b). She also objected to proceeding under an indictment that omitted any allegation that she knew about her status. *See ibid.* ("A party may preserve a claim of error by informing the court—when the court ruling or order is made or sought—of the action the party wishes the court to take, or the party's objection to the court's action and the grounds for that objection."). Once the district court rejected her statutory interpretation argument, she was not required to raise an "exception" to that ruling. Fed. R. Crim. P. 51(a). And there was no point in going to trial (or making a fuss at the subsequent plea hearing) to contest a fact that—in the court's view—was irrelevant to her guilt or innocence. *See Mathis v. United States*, 136 S. Ct. 2243, 2253 (2016) ("At trial, and still more at plea hearings, a defendant may have no incentive to contest what does

not matter under the law; to the contrary, he may have good reason not to—or even be precluded from doing so by the court.") (internal quotation omitted).

C. Under plenary review, Ms. Sifuentes would prevail and her conviction would be vacated.

The Fifth Circuit has not considered the indictment error at all. And it applied plain-error review to the guilty plea issues. The most obvious course would be to correct the Fifth Circuit's erroneous preservation holding and remand the case back to that court. If that happens, Ms. Sifuentes's conviction will be reversed.

1. "An indictment must set forth each element of the crime that it charges." *United States v. Resendiz-Ponce*, 549 U.S. 102, 107 (2007). Here, the indictment did not allege knowledge of prohibited status. App, *infra*, 5a–6a. This should be considered structural error. *See Resendiz-Ponce*, 549 U.S. at 116–117 (Scalia, J., dissenting); *Neder v. United States*, 527 U.S. 1, 30–37 (1999) (Scalia, J., concurring in part and dissenting in part).

2. Even if the error was not structural, Ms. Sifuentes would prevail under harmless-error review. As an initial matter, the Government would have the burden of proving that the constitutional error (failing to allege an essential element) was harmless beyond a reasonable doubt. *Chapman v. California*, 386 U.S. 18, 24 (1967). This would be much harder here than in *Johnson v. United States*, 520 U.S. 461 (1997), and *United States v. Cotton*, 535 U.S. 625 (2002), because this was not merely an error about *allocation* of decision-making authority. In those cases, it was undisputed that the Government had to prove the fact in question to *someone*. Both parties had an incentive to contest the fact with available evidence and argument.

Here, by contrast, the district court conclusively ruled that knowledge of prohibited status was not an element of the offense and need not be proven at all.

3. The Fifth Circuit would also likely reverse regarding the guilty-plea errors if it recognized that she preserved the issue for plenary review. The court analyzed those errors solely as a matter of plain error, and affirmed because the error was not "plain" enough, did not affect her substantial rights, and did not seriously affect the fairness, integrity, and public reputation of judicial proceedings. App., *infra*, 3a–4a. None of those concerns would matter under plenary review.

As the Fifth Circuit recognized, the only evidence about Ms. Sifuentes's actual knowledge was the state court judgment submitted during the sentencing proceeding. App., *infra*, 3a. In the appellate court's view, this made the question "reasonably disputable." *Ibid.* The Fifth Circuit's waiver and forfeiture rulings should be reversed.

II. THE COURT SHOULD GRANT THE PETITION TO RESOLVE THE CIRCUIT SPLIT OVER APPELLATE REVIEW OF GUILTY PLEAS ACCEPTED UNDER A MISTAKEN VIEW OF THE ELEMENTS OF THE OFFENSE.

Even under plain-error review, the Fifth Circuit should have reversed. There is a circuit split on the question, but she would have prevailed in the Fourth Circuit and should prevail here.

A. There is an acknowledged multi-way split among the lower courts.

The lower courts have taken a variety of approaches to reviewing pre-*Rehaif* convictions under § 922(g). Most courts have held that they may consult evidence outside the trial or guilty-plea record when performing plain-error review, but "[t]he

justifications offered for that view are not all of a piece." *United States v. Nasir*, 18-2888, 2020 WL 7041357, at *13 (3d Cir. Dec. 1, 2020).

Focusing only on guilty pleas, the Fourth Circuit has held that a court reversibly errs when it misadvises a defendant about the elements of the offense to which he is pleading guilty. *United States v. Gary*, 954 F.3d 194, 203 (4th Cir. 2020). This Court has suggested that a district court commits reversible error whenever it misadvises a defendant about the nature of his plea. *United States v. Dominguez Benitez*, 542 U.S. 74, 84 n.10 (2004). "We do not suggest that such a conviction could be saved even by overwhelming evidence that the defendant would have pleaded guilty regardless." *Id.*

Following the reasoning of *Dominguez Benitez*, the Fourth Circuit held that a statutory construction error was structural where it caused the court to misadvise the defendant "regarding the nature of a § 922(g) offense and the elements the government needed to prove to find him guilty." *Gary*, 954 F.3d at 206. Critically, the Fourth Circuit held that it would reach the same conclusion "[r]egardless of evidence in the record that would tend to prove that Gary knew of his status as a convicted felon." *Id.* at 207.

The Fifth, Sixth, and Tenth Circuits have all explicitly disagreed with *Gary*. *See*, e.g., *United States v. Hicks*, 958 F.3d 399, 401 (5th Cir. 2020); *United States v. Watson*, 820 F. App'x 397, 400 (6th Cir. 2020); *United States v. Trujillo*, 960 F.3d 1196, 1205 (10th Cir. 2020). Other circuits have also affirmed based on evidence within or outside the record tending to show awareness of status. *See United States*

v. Burghardt, 939 F.3d 397, 403–405 (1st Cir. 2019); *United States v. Balde*, 943 F.3d 73, 97 (2d Cir. 2019); *United States v. Williams*, 946 F.3d 968, 973-975 (7th Cir. 2020); *United States v. Coleman*, 961 F.3d 1024, 1030 (8th Cir. 2020); *United States v. Bates*, 960 F.3d 1278, 1296 (11th Cir. 2020).

The Third Circuit recently reversed a trial conviction because of "a misapprehension about the law—one shared by everyone in the courtroom, and perhaps across the nation, until *Rehaif*." *Nasir*, 18-2888, 2020 WL 7041357, at *23. While not directly relevant to the circuit split about review of guilty pleas, *Nasir* reflects a departure from other circuits' willingness to overlook obvious *Rehaif* errors.

B. The indictment and guilty-plea errors in this case all arose because of the same statutory-interpretation error.

The grand jury did not find that Ms. Sifuentes knew about her status. She did not admit that she knew about her status when she committed the crime. The district court did not advise her that knowledge-of-status was an element of the offense the Government would have to prove at trial; on the contrary, the court told her the opposite in denying her motion to dismiss. And the trial court itself did not find knowledge of status. At most, the Fifth Circuit could say that her knowledge was "reasonably disputable." App., *infra*, 3a.

Ms. Sifuentes put this issue on the district court's radar when she filed her motion to dismiss. App., *infra*, 9a–11a. She was correct. If the district court had properly construed § 922(g)(1), it would have dismissed her indictment. That surely would be a change in outcome, and an effect on her substantial rights. But the court would also be required to correctly advise her about the elements of the offense before

allowing her to plead guilty, and it would have to find an adequate factual basis for the allegation that she knew of her status on the date she possessed the guns. These related errors all arose from a single dispute about the proper interpretation of §§ 922(g)(1) & 924(a)(2), and this Court resolved that dispute in her favor.

C. This case presents a strong vehicle to analyze *Rehaif*'s effect on previous guilty pleas because Ms. Sifuentes did not serve more than one year in prison.

To convict under §§ 922(g)(1) and 924(a)(2), the Government would have to prove that Ms. Sifuentes knew, as of the date she possessed the rifles, that she had been convicted of a crime "punishable by imprisonment for a term exceeding one year." § 922(g)(1). That would be a trivial burden where a defendant spent more than a year in prison after a prior conviction. But here, Ms. Sifuentes did not serve prison time after her felony conviction. The sentence was suspended in favor of community supervision. Thus, the Government's burden (whether at trial, or under harmless-error review) would not be a trivial one.

D. Alterantively, this Court should hold this petition to await a merits decision in *Gary* or any other case where the Court intends to address review of pre-*Rehaif* guilty pleas.

The Solicitor General has petitioned for certiorari in *Gary*. *See* Pet. for Certiorari, *United States v. Gary*, No. 20-444 (filed Oct. 5, 2020). That petition acknowledges the circuit split and the importance of the question. For all the reasons stated, this case would be a good one to evaluate the recurring issues arising from pre-*Rehaif* convictions. This case is superior to *Gary* in at least one respect: Petitioner never served more than one year in prison. But in the event this Court chooses to

grant certiorari in *Gary* or any other case to address the proper way to review pre-*Rehaif* guilty pleas on direct appeal, Ms. Sifuentes asks that the Court hold this petition and resolve it in light of that other case.

CONCLUSION

Ms. Sifuentes asks that this Court to grant the petition and reverse the decision below. Alternatively, she asks that the Court hold the petition pending a decision in *Gary* or in any other case in which the Court intends to clarify the proper way to review pre-*Rehaif* guilty plea convictions.

Respectfully submitted,

J. MATTHEW WRIGHT
FEDERAL PUBLIC DEFENDER'S OFFICE
NORTHERN DISTRICT OF TEXAS
500 SOUTH TAYLOR STREET, SUITE 110
AMARILLO, TEXAS 79101
MATTHEW_WRIGHT@FD.ORG
(806) 324-2370

DECEMBER 7, 2020