

No. 20-6693

IN THE SUPREME COURT OF THE UNITED STATES

TARCISIO VALENCIA-BARRAGAN, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 25-32) that his conviction following a guilty plea on one count of possessing a firearm and ammunition as a prohibited person, in violation of 18 U.S.C. 922(g)(9), should be vacated on plain-error review because knowledge of his prohibited status was not understood to be an element of his 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.

ELIZABETH B. PRELOGAR
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.