

No. 20-7678

IN THE SUPREME COURT OF THE UNITED STATES

ROSHAWN DEON JOINER, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 13-18) that his prior convictions for robbery, in violation of Texas Penal Code § 29.02, do not qualify as violent felonies under the Armed Career Criminal Act of 1984, 18 U.S.C. 924(e), on the theory that an offense that can be committed with a mens rea of recklessness does not "ha[ve] as an element the use, attempted use, or threatened use of physical force against the person of another," 18 U.S.C. 924(e)(2)(B)(i). This Court has granted review in Borden v. United States, No. 19-5410 (argued Nov. 3, 2020), to address that question. The petition for a writ of certiorari should therefore be held pending the decision

in Borden and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Acting Solicitor General

JUNE 2021

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