

No. 21-5046

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IN THE SUPREME COURT OF THE UNITED STATES

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IRA LEE WILKINS, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 4-16) that his prior conviction for aggravated robbery, in violation of Texas Penal Code Ann. § 29.03 (West 1994 & Supp. 1999), does not qualify as a "crime of violence" under Sentencing Guidelines § 4B1.2(a), in light of this Court's decision in Borden v. United States, 141 S. Ct. 1817 (2021). In Borden, this Court determined that Tennessee reckless aggravated assault, in violation of Tenn. Code Ann. § 39-13-102(a)(2) (2003), lacks a mens rea element sufficient to satisfy the definition of a "violent felony" under the Armed Career Criminal Act of 1984, 18 U.S.C. 924(e)(2)(B)(i). The appropriate disposition is to grant

the petition for a writ of certiorari, vacate the decision below, and remand the case for further consideration in light of Borden.\*

Respectfully submitted.

BRIAN H. FLETCHER  
Acting Solicitor General

SEPTEMBER 2021

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