

No. 21-6007

IN THE SUPREME COURT OF THE UNITED STATES

CARLTON POTTS, AKA PEP, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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Petitioner contends (Pet. 20-28) that a district court considering a defendant's motion for a discretionary reduction of sentence under Section 404(b) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5222, must consider intervening legal and factual developments -- in addition to the changes made by Sections 2 and 3 of the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 -- that have occurred since the defendant's original sentencing. This Court has granted review in Concepcion v. United States, No. 20-1650 (Sept. 30, 2021), to address that question. The petition for a writ of certiorari should therefore

be held pending the decision in Concepcion and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

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* The government waives any further response to the petition unless this Court requests otherwise.