

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

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No. 21-6007

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MEMORANDUM FOR THE UNITED STATES

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.