

No. 21-6753

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IN THE SUPREME COURT OF THE UNITED STATES

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TREVIN NUNNALLY, AKA RICK, 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 ELEVENTH CIRCUIT

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MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 7-8) that a district court considering a motion for a reduced sentence under Section 404(b) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5222, must take account of all intervening changes in law that have occurred since the offender's original sentencing, including changes made by the First Step Act itself. This Court has granted review in Concepcion v. United States, No. 20-1650 (argued Jan. 19, 2022), to address whether district courts may or must consider all intervening legal and factual developments, unrelated to Sections 2 and 3 of the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372, in Section 404 proceedings. 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

MARCH 2022

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