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NO. 21-8127

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IN THE

**Supreme Court of the United States**

\_\_\_\_\_ TERM, 20\_\_

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RUSSELL KIMBLE JACKSON,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Eighth Circuit

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**SUPPLEMENTAL BRIEF FOR PETITIONER**

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## SUPPLEMENTAL BRIEF

This supplemental brief is offered under Rule 15.8 to highlight the impact of the Tenth Circuit's decision in *United States v. Williams*, --F. 4th--, 2022 WL 4102823 (10th Cir. 2022), on Mr. Jackson's petition for writ of certiorari.

Mr. Jackson has asked this Court to determine whether prior drug convictions inclusive of substances that have since been decontrolled can be used to impose present day federal sentencing enhancements.

In *Williams*, the Tenth Circuit addressed whether a defendant's prior conviction, which was inclusive of now decontrolled substances, was a serious drug offense under the Armed Career Criminal Act. The Tenth Circuit held that convictions inclusive of now decontrolled substances do not qualify for the sentencing enhancement. The court determined that "applying the federal definition in effect at the time of the federal offense is most consistent with fundamental principles of due process." 2022 WL 4102823, at \*13. Applying the definition in effect at the time of a defendant's federal offense was necessary to "give ordinary people fair notice of the consequences of violating a criminal statute." *Id.*

*Williams* also rejected the government's argument that *McNeill v. United States*, 563 U.S. 816 (2011), required courts to apply the federal definition in effect at the time of a defendant's prior conviction. *Id.* The Tenth Circuit recognized that "*McNeill* has no bearing on what version of *federal law* serves as the point of comparison for the prior state offense, which is the question here." *Id.*



The Tenth Circuit's decision has deepened the circuit split. *See id.* at \*9 (acknowledging circuit split). This Court should grant the Petition for Writ of Certiorari to address this circuit split.

### **CONCLUSION**

For the foregoing reasons, Mr. Jackson respectfully requests that the Petition for Writ of Certiorari be granted.

RESPECTFULLY SUBMITTED,

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