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September 14, 2022

The Honorable Scott S. Harris
Clerk's Office
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Nathaniel Daniels v. United States*, No. 22-5102

Dear Mr. Harris:

Petitioner, Mr. Nathaniel Daniels, files this letter to alert this Court to recent filings by the United States that may affect this Court's disposition of the above referenced petition. On July 11th, Mr. Daniels filed a petition for a writ of certiorari with the Court. On July 18th, the United States filed a waiver of its right to respond. The petition is currently calendared for this Court's September 28th conference.

In his petition, Mr. Daniels argues that this Court should grant review because the Fourth Circuit's opinion affirming his Armed Career Criminal Act sentence conflicts with this Court's recent decision in *Wooden v. United States*, 142 S. Ct. 1063 (2022). Specifically, the Fourth Circuit holds that a sentencing judge can determine whether a defendant has three or more qualifying predicate convictions "committed on occasions different from one another." 18 U.S.C. § 924(e)(1). But, Mr. Daniels argued, *Wooden* requires either that a defendant admit that fact or that a jury find it beyond a reasonable doubt.

After Mr. Daniels filed his petition, the United States filed notices in two cases of which undersigned counsel is aware in which it reversed its longstanding position on this issue and states that

In the light of the "multi-factored" and "holistic" inquiry required by *Wooden*, 142 S. Ct. at 1070–71, the Solicitor General has determined that a jury must find, or a defendant must

admit, that a defendant's predicates under the Armed Career Criminal Act were committed on occasions different from one another.

Notice, *United States v. Brown*, 4th Cir. No. 21-4253, D.E. 31; *see also* Notice, *United States v. Hadden*, 4th Cir. No. 19-4151, D.E. 57. The United States further contends that any defendant requesting relief for this error must satisfy either plain or harmless error review. *Id.*

Mr. Daniels respectfully submits that the Court should consider these notices when reviewing his petition.

I would appreciate your submitting this letter to the Court.

Sincerely,

/s/ Eric J. Brignac
ERIC J. BRIGNAC
CHIEF APPELLATE ATTORNEY

cc:

Elizabeth Prelogar, Solicitor General of the United States
David A. Bragdon, Assistant United States Attorney