

No. 22-5435

IN THE SUPREME COURT OF THE UNITED STATES

RAHSAAN JOHNSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH 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. 10-11) that the court of appeals erred in affirming the denial of his motion for a reduced sentence under Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5222. Petitioner's contention that the decision below rests on precedent abrogated by Concepcion v. United States, 142 S. Ct. 2389 (2022), would be best addressed by the court of appeals in the first instance. Accordingly, the appropriate course is to grant the petition for a writ of certiorari, vacate the

decision below, and remand the case for further consideration in light of Concepcion.*

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.