

IN THE SUPREME COURT OF THE UNITED STATES

ARTAK OVSEPIAN, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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No. 22-6129

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MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 4-6) that the court of appeals erred in declining to grant a certificate of appealability on his challenge to his conviction for aggravated identity theft, in violation of under 18 U.S.C. 1028A, on the theory that the statute requires proof that the defendant used another person's means of identification to pass himself off as that person. This Court has granted review in Dubin v. United States, No. 22-10 (oral argument scheduled for Feb. 27, 2023), to address the question whether the defendant in that case "use[d]" the means of identification of another person to commit fraud, in violation of 18 U.S.C. 1028A(a)(1), by submitting a Medicaid claim invoking a specific

patient's right to reimbursement for a fictitious medical examination. Because the Court's resolution of that case could affect the disposition of petitioner's motion to vacate his conviction under 28 U.S.C. 2255, the Court should hold the petition for a writ of certiorari pending its decision in Dubin and then dispose of this petition as appropriate.*

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.