



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

April 6, 2023

Honorable Scott S. Harris  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: McClinton v. United States, No. 21-1557  
Luczak v. United States, No. 21-8190  
Shaw v. United States, No. 22-118  
Karr v. United States, No. 22-5345  
Bullock v. United States, No. 22-5828  
Cain v. United States, No. 22-6212  
Sanchez v. United States, No. 22-6386

Dear Mr. Harris:

The above-captioned pending petitions for writs of certiorari seek this Court's review of related questions about the constitutionality of a court's consideration at sentencing of conduct that a jury did not find beyond a reasonable doubt, but which the court finds by a preponderance of the evidence. As the government previously informed the Court, the United States Sentencing Commission had proposed amendments to the Sentencing Guidelines that would have prohibited consideration of certain forms of acquitted conduct for certain sentencing purposes. See 88 Fed. Reg. 7180, 7224-7225 (Feb. 2, 2023).

This letter is submitted to make the Court aware that, after receiving public comments, the Sentencing Commission has voted to adopt and send to Congress amendments to the Sentencing Guidelines that do not address the use of acquitted conduct at sentencing. See U.S. Sentencing Commission, *Adopted Amendments (Effective November 1, 2023)*, [www.usc.gov/guidelines/amendments/adopted-amendments-effective-november-1-2023](http://www.usc.gov/guidelines/amendments/adopted-amendments-effective-november-1-2023). The Chair stated that the Committee "intend[s] to resolve questions involving acquitted conduct next year." *Remarks as Prepared for Delivery by Chair Carlton W. Reeves* 23 (Apr. 5, 2023), [www.usc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20230405/20230405\\_remarks.pdf](http://www.usc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20230405/20230405_remarks.pdf).

I would appreciate it if you could circulate this letter to Members of the Court.

Sincerely,

Elizabeth B. Prelogar  
Solicitor General

cc: See Attached Service List

21-1557  
MCCLINTON, DAYONTA  
USA

KEITH BRADLEY  
SQUIRE PATTON BOGGS(US)LLP  
1801 CALIFORNIA STREET  
SUITE 4900  
DENVER, CO 80202  
303-894-1776  
KEITH.BRADLEY@SQUIREPB.COM

NATALIE D. CAMASTRA  
O'MELVENY & MYERS LLP  
400 SOUTH HOPE STREET  
18TH FLOOR  
LOS ANGELES, CA 90071-2899  
213-430-8060  
NCAMASTRA@OMM.COM

LAUREN GAILEY  
WINSTON & STRAWN LLP  
1901 L STREET NW  
WASHINGTON, DC 20036-3506  
LGAILEY@WINSTON.COM

CHRISTOPHER D. MAN  
WINSTON & STRAWN LLP  
1901 L STREET, N.W  
WASHINGTON, DC 20036-3506  
202-282-5622  
CMAN@WINSTON.COM

SHANA-TARA O'TOOLE  
DUE PROCESS INSTITUTE  
700 PENNSYLVANIA AVENUE, SE  
SUITE 560  
WASHINGTON, DC 20003  
202-558-6680  
SHANA@IDUEPROCESS.ORG

MICHAEL PEPSON  
AMERICANS FOR PROSPERITY FOUNDATION  
1310 N. COURTHOUSE ROAD  
SUITE 700  
ARLINGTON, VA 22201  
571-329-4529  
MPEPSON@AFPHQ.ORG

ELIE SALAMON  
ARNOLD & PORTER KAYE SCHOLER LLP  
250 WEST 55TH STREET  
NEW YORK, NY 10019-9710  
212-8367360  
ELIE.SALAMON@ARNOLDPORTER.COM

JONATHAN PODOLSKY SCHNELLER  
O'MELVENY & MYERS LLP  
400 S. HOPE ST.  
18TH FLOOR  
LOS ANGELES, CA 90071  
213-430-8115  
JSCHNELLER@OMM.COM

JAY R. SCHWEIKERT  
CATO INSTITUTE  
1000 MASSACHUSETTA AVE., NW  
WASHINGTON, DC 20001  
202-842-0200  
JSCHWEIKERT@CATO.ORG

21-8190  
LUCZAC, THOMAS  
USA

PATRICK EAMON BOYLE  
155 NORTH MICHIGAN AVENUE  
SUITE 562  
CHICAGO, IL 60601

22-0118  
SHAW, MARQUIS  
USA

PETER GOLDBERGER  
50 RITTENHOUSE PLACE  
ARDMORE, PA 19003  
610-649-8200  
PETER.GOLDBERGER@VERIZON.NET

22-5345  
KARR, GARY PAUL  
USA

JUDY FULMER MADEWELL  
FEDERAL PUBLIC DEFENDER  
727 E. CESAR E. CHAVEZ BOULEVARD  
B-207  
SAN ANTONIO, TX 78206-1205  
2104726700  
JUDY\_MADEWELL@FD.ORG

22-5828  
BULLOCK, DESHAUN  
USA

CARLYLE PARISH  
CARLYLE PARISH, LLC  
307 JEFFERSON  
# 128  
ST. LOUIS, MO 63118  
314 277 7670



22-6212  
CAIN, ERIC  
USA

KENNETH P. TABLEMAN  
KENNETH P. TABLEMAN, P.C.  
71 MARYLAND AVE., SE  
GRAND RAPIDS, MI 49506  
616-233-0455  
TABLEMANK@SBCGLOBAL.NET

22-6386  
SANCHEZ, FRANK  
USA

MOLLY C. QUINN  
OFFICE OF THE FEDERAL PUBLIC DEFENDER  
101 SOUTH MAIN AVE.  
SUITE 400  
SIOUX FALLS, SD 57104  
605-330-4489  
MOLLY\_QUINN@FD.ORG