

No. 23-370

IN THE SUPREME COURT OF THE UNITED STATES

PAUL ERLINGER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Seventh Circuit

**MOTION FOR LEAVE TO DISPENSE WITH
PREPARATION OF A JOINT APPENDIX**

Pursuant to Rule 26.8 of the Rules of this Court, petitioner Paul Erlinger moves for leave to dispense with the requirement of a joint appendix in this case. The parties and the amicus curiae this Court has appointed to defend the judgment below agree that a joint appendix is not necessary.

This criminal case presents the question whether the requirement in the Armed Career Criminal Act that a defendant's prior convictions were "committed on occasions different from one another," 18 U.S.C. § 924(e)(1), must be proven to a jury beyond a reasonable doubt. The appendix to the petition for certiorari includes the opinion of the court of appeals, the information charging the instant offense,

petitioner's sentencing memorandum from his 2022 resentencing, excerpts from petitioner's resentencing hearing, and the relevant statutory provision. The parties do not believe that any other portion of the record merits special attention that warrants the preparation and expense of a joint appendix. Nor do they believe that a separate joint appendix would materially assist the Court's consideration of the case.

The Solicitor General and the amicus curie appointed to defend the judgment below agree with this motion. The amicus curiae has advised petitioner that he might include an appendix to his brief that contains the state court charging documents and plea agreement for petitioner's predicate convictions, as was done in *Pereida v. Wilkinson*, 141 S. Ct. 794 (2021) (No. 19-438).

Respectfully submitted,

By: /s/ Jeffrey L. Fisher

Jeffrey L. Fisher
Counsel of Record
O'MELVENY & MYERS LLP
2765 Sand Hill Road
Menlo Park, CA 94025
(650) 473-2600
jlfisher@omm.com

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