No. 23-5014

IN THE SUPREME COURT OF THE UNITED STATES

JAMIE WILLIAMS, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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. 7-20) that the lower courts erred in treating a prior judicial finding of drug quantity as binding in denying his motion for a sentence reduction pursuant to Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5222. For the reasons set forth in the government's brief in opposition to the petition for a writ of certiorari in Harper v. United States, No. 23-27 (filed Nov. 9, 2023), the government agrees with petitioner that when authorizing district courts to "impose a reduced sentence," § 404(b), 132 Stat. 5222, Congress envisioned that courts would do so in a manner consistent with

Apprendi v. New Jersey, 530 U.S. 466 (2000), which allows an increase in a defendant's statutory sentencing range only when a jury has found the conditions for that increase (other than the fact of a prior conviction) beyond a reasonable doubt.[1]

As further explained in that brief, however, that issue does not warrant this Court's review. See Harper Br. in Opp. at 12-14. Petitioner identifies no other court of appeals that has adopted the Eleventh Circuit's outlier interpretation; the circuit conflict on the question presented is lopsided and of limited practical significance; and the question presented is of declining prospective importance, in light of the diminishing set of potential Section 404 movants whose motions would implicate it. See ibid.

In any event, this case is an unsuitable vehicle in which to review the question presented because petitioner would be a poor candidate for Section 404 relief in any circuit. As explained in the government's brief in Harper, all courts of appeals at least allow district courts adjudicating Section 404 motions to consider judge-found drug quantities when deciding whether to exercise their discretion to reduce a defendant's sentence. Harper Br. in Opp. at 12-13; see, e.g., United States v. Robinson, 9 F.4th 954, 959 (8th Cir. 2021) (per curiam). Here, the sentencing court found petitioner responsible for 982.9 grams of crack cocaine, Pet. App.

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[1] The government has served petitioner with a copy of the government's brief in opposition in Harper.

A at 1 -- a very large quantity that substantially exceeds the 280-gram threshold for a potential life sentence under the Fair Sentencing Act of 2010, Pub. L. No. 111-120, 124 Stat. 2372. See Terry v. United States, 141 S. Ct. 1858, 1863 (2021). And petitioner received a perjury enhancement for claiming that he did not reside in the house where the crack cocaine was found. See PSR ¶ 23; Sent. Tr. 9. District courts in any circuit could account for these facts.

In addition, the district court judge who denied petitioner's Section 404 motion was the same judge who made the drug quantity finding at petitioner's sentencing. Compare Sent. Tr. 1, with Pet. App. A at 4. And petitioner's extensive disciplinary record in prison -- 105 infractions, including some involving violence -- further militates against discretionary relief. See D. Ct. Doc. 120-1 (Aug. 1, 2019); D. Ct. Doc. 120 at 16-18 (Aug. 1, 2019); Concepcion v. United States, 142 S. Ct. 2389, 2403 (2022) (noting that courts may "look[] to postsentencing evidence of violence or prison infractions as probative" when "deciding whether to grant First Step Act motions"). Because the question presented is thus unlikely to be outcome-determinative, this case presents an inapposite vehicle for considering it.

The petition for a writ of certiorari should be denied.[2]

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[2] The government waives any further response to the petition unless this Court requests otherwise.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

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