

No. 23-6361

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR GRANT, 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

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Petitioner contends (Pet. 2, 7-12) that his three prior cocaine convictions under Florida law, Pet. App. 4a, do not qualify as “serious drug offense[s]” under the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e)(2)(A). The judgment of the court of appeals was entered on August 15, 2023. The petition for a writ of certiorari was not filed until December 21, 2023, and is out of time under Rule 13.1 of the Rules of this Court.

Should the Court choose to entertain the petition, it should hold the petition pending the Court’s decision in Brown v. United States, 143 S. Ct. 2458 (2023) (No. 22-6389) (argued Nov. 27,

2023), and Jackson v. United States, 143 S. Ct. 2457 (2023) (No. 22-6640) (argued Nov. 27, 2023). This Court granted certiorari in Brown and Jackson to consider whether the classification of a prior state conviction as a “serious drug offense” under the ACCA depends on the federal controlled-substance schedules in effect at (1) the time of the defendant’s prior state crime; (2) the time of the federal offense for which he is being sentenced; or (3) the time of his federal sentencing. Here, petitioner argues (Pet. 2) that the classification of his prior state convictions as “serious drug offense[s]” under the ACCA should depend on the federal controlled-substance schedules in effect at the time of his federal offense conduct, rather than at the time of his prior state crimes. Accordingly, if the Court entertains the petition for a writ of certiorari, it should be held pending the decision in Brown and Jackson, and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
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* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.