No. 23-6579

IN THE SUPREME COURT OF THE UNITED STATES

JAMAAL A. HAMEEN, 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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1. Petitioner contends (Pet. 8-9) that his prior cocaine conviction under Florida law, Pet. 5, does not qualify as a "serious drug offense" under the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e)(2)(A). Specifically, petitioner argues (Pet. 8-9) that the classification of his prior state conviction as a "serious drug offense" under the ACCA should depend on the federal controlled-substance schedules in effect at the time of his federal offense conduct or his federal sentencing hearing, rather than at the time of his prior state crime.

This Court has granted certiorari 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), 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. The petition for a writ of certiorari here should accordingly be held pending the Court's decision in Brown and Jackson and then disposed of as appropriate.

2. Petitioner further contends (Pet. 18-20) that the Constitution requires a jury trial and proof beyond a reasonable doubt to find that a defendant's prior convictions were "committed on occasions different from one another," as is necessary to impose an enhanced sentence under the ACCA, 18 U.S.C. 924(e)(1). This Court has granted certiorari in Erlinger v. United States, 144 S. Ct. 419 (2023) (No. 23-370), to consider that issue. The petition for a writ of certiorari here should accordingly also be held pending the Court's decision in Erlinger and then disposed of as appropriate.*

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

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

MARCH 2024