

No. 23-7478

IN THE SUPREME COURT OF THE UNITED STATES

DYLAN GREGORY KERSTETTER, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends (Pet. 15-19) that the Constitution requires indictment, 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 Armed Career Criminal Act, 18 U.S.C. 924(e) (1). On November 20, 2023, this Court granted certiorari in Erlinger v. United States, No. 23-370, to consider that issue. The petition for a writ of certiorari here should accordingly be

held pending the Court's decision in Erlinger and then disposed of as appropriate.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

June 2024

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