

No. 23-7841

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD SCHOROVSKY, 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. 7) 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 Armed Career Criminal Act, 18 U.S.C. 924(e)(1). In Erlinger v. United States, 144 S. Ct. 1840 (2024), this Court held that the Constitution requires that a jury determine beyond a reasonable doubt that a defendant's predicate offenses were committed on different occasions. Id. at 1848-1851. The Court should grant the petition for a writ of certiorari, vacate the

court of appeals' judgment, and remand for further consideration in light of Erlinger.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

AUGUST 2024

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