

No. 24-5013

IN THE SUPREME COURT OF THE UNITED STATES

JONATHAN FELIZ, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-5013

JONATHAN FELIZ, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 7-11) that attempted second-degree murder in violation of New York Penal Law § 110.00 and § 125.25, as part of a pattern of racketeering activity, does not qualify as a “crime of violence” under 18 U.S.C. 924(c)(3) on the theory that the crime can be committed by an act of omission and therefore does not “ha[ve] as an element the use, attempted use, or threatened use of physical force against the person or property of another.” This Court granted certiorari in Delligatti v. United States, No. 23-825 (June 3, 2024), to consider whether that interpretation of Section 924(c)(3) is correct. Accordingly, the petition for a writ of certiorari should be held pending the

Court's decision in Delligatti, and then disposed of as appropriate in light of that decision.*

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.