

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

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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.