

No. 17-9399

IN THE SUPREME COURT OF THE UNITED STATES

ERNEST D. SHIELDS, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioner challenges (Pet. 13-22) the court of appeals' determination that his prior conviction for residential burglary in Illinois qualifies as a generic "burglary" and, thus, a "violent felony" under the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e)(2)(B)(ii). Specifically, petitioner argues (Pet. 20-21) that because the Illinois statute criminalizes the burglary of, inter alia, "mobile homes" and "trailers," it "exceeds the generic definition of burglary." The Court is currently considering a similar question in United States v. Stitt, cert. granted, No. 17-765 (Apr. 23, 2018), and United States v. Sims,

cert. granted, No. 17-766 (Apr. 23, 2018), which will address whether burglary of a nonpermanent or mobile structure adapted or used for overnight accommodation qualifies as "burglary" under the ACCA. The petition for a writ of certiorari should therefore be held pending the Court's decision in Stitt and Sims, and disposed of as appropriate in light of that decision.

Petitioner further contends (Pet. 22-29) that the court of appeals erred in determining that his prior conviction for armed robbery, in violation of Illinois law, was a conviction for a "violent felony" under the elements clause of the ACCA, 18 U.S.C. 924(e)(2)(B)(i). He appears to argue that Illinois armed robbery may be committed by using force sufficient to overcome resistance, see, e.g., Pet. 27-28, and that it therefore does not "ha[ve] as an element the use, attempted use, or threatened use of physical force against the person of another," 18 U.S.C. 924(e)(2)(B)(i). The question petitioner presents is related to the issue currently before this Court in Stokeling v. United States, cert. granted, No. 17-5554 (Apr. 2, 2018), which will address whether a defendant's prior conviction for robbery under Florida law satisfies the ACCA's elements clause. Because the proper disposition of the petition for a writ of certiorari may be affected by the Court's resolution of Stokeling, the petition

should also be held pending the decision in Stokeling, and disposed of as appropriate in light of that decision.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

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