



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

January 18, 2023

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: McClinton v. United States, No. 21-1557
Luczak v. United States, No. 21-8190
Shaw v. United States, No. 22-118
Karr v. United States, No. 22-5345
Bullock v. United States, No. 22-5828

Dear Mr. Harris:

The above-captioned pending petitions for writs of certiorari seek this Court's review of related questions about the constitutionality of a court's consideration at sentencing of conduct that a jury did not find beyond a reasonable doubt, but which the court finds by a preponderance of the evidence. This letter is submitted to make the Court aware that on January 12, 2023, the United States Sentencing Commission proposed amendments to the Sentencing Guidelines that would prohibit the consideration of certain forms of acquitted conduct "for purposes of determining the guideline range," although those amendments would continue to permit consideration of such conduct "in determining the sentence to impose within the guideline range, or whether a departure from the guidelines is warranted." U.S. Sentencing Commission, *Proposed Amendments to the Sentencing Guidelines (Preliminary)*, *Proposed Amendment: Acquitted Conduct* 13-14, www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20230112_prelim_RF.pdf. The Commission has invited the public to comment on the proposed amendments. *Id.* at 14. The comment period will run through March 14, 2023. See *id.* at i.

I would appreciate it if you could circulate this letter to Members of the Court.

Sincerely,

Elizabeth B. Prelogar
Solicitor General

cc: See Attached Service List

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