

No. 22-6640

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IN THE  
Supreme Court of the United States

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EUGENE JACKSON,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals  
for the Eleventh Circuit

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**REPLY BRIEF FOR PETITIONER**

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## REPLY BRIEF FOR PETITIONER

The United States agrees that the Court should grant certiorari in this case. U.S. Br. 9, 13. In particular, the government agrees that there is a “five-circuit conflict” three ways on the question presented. *Id.* at 9, 11–12; *see also* Pet. 15–21. The government agrees that this conflict “warrants resolution by this Court” because “the question presented is important and recurring.” U.S. Br. 9, 11–12; *see also* Pet. 26–32. And the government agrees that this case “implicates [the] circuit conflict” and provides a “suitable” and “appropriate vehicle for this Court to fully eliminate” it. U.S. Br. 9, 11–13; *see also* Pet. 32–35. Accordingly, it is now clear that the Court should grant certiorari in this case.

The only real question is what the Court should do with the petition in *Brown v. United States* (No. 22-6389). The government recommends that the Court hold *Brown* pending resolution of this case. U.S. Br. 13 n.2. Meanwhile, Mr. Brown argues that the Court should grant plenary review in his case in addition to this one. Petitioner agrees that the Court may wish to grant plenary review in *Brown* as well. Assuming the Court grants certiorari in this case, petitioner will continue to argue—as Mr. Brown does—that the proper temporal touchpoint here is the time of federal sentencing. But because petitioner will make that argument only in the alternative, it would be theoretically possible for the Court to decide this case in his favor without addressing that argument. By contrast, it would be impossible for the Court to rule in Mr. Brown’s favor without addressing the time-of-federal-sentencing argument.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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