

No. 23-6647

IN THE SUPREME COURT OF THE UNITED STATES

DAVAUDRICK ANTRON ETCHISONBROWN, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 5-16) that 18 U.S.C. 922(g)(1) is unconstitutional under the Second Amendment and the Commerce Clause. He also contends (Pet. 16-17) that under the Sentencing Commission's recent amendment to Sentencing Guidelines § 4B1.2(a), see Sentencing Guidelines App. C Supp., Amend. 822, his prior Texas robbery conviction may not qualify as a crime of violence, and therefore this Court should grant certiorari, vacate the judgment, and remand (GVR) for consideration of the amendment.

For the reasons explained in the government's brief in opposition to the petition for a writ of certiorari in Racliff v.

United States, No. 23-6278 (filed Feb. 29, 2024), a copy of which is being served on petitioner, his contentions are unsound and do not warrant further review or relief from this Court. In particular, the Sentencing Guidelines amendment does not alter the 2021 Guidelines applicable to petitioner, provide a reason to question the court of appeals' interpretation of those Guidelines, or even to exclude petitioner's robbery conviction from its redefinition of "crime of violence." See id. at 12-14. Moreover, the district court made clear that it would impose the same sentence regardless of the advisory guidelines range. See Sent. Tr. 89. Accordingly, no GVR is warranted here.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

FEBRUARY 2024

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