

22-6640 JACKSON V. UNITED STATES

DECISION BELOW: 55 F.4th 846

LOWER COURT CASE NUMBER: 21-13963

QUESTION PRESENTED:

The Armed Career Criminal Act mandates fifteen years in prison for federal firearm offenses where the defendant has three prior "violent felonies" or "serious drug offenses." The ACCA defines a "serious drug offense" as "an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a *controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))*, for which a maximum term of imprisonment often years or more is prescribed by law." 18 U.S.C. § 924(e)(2)(A)(ii) (emphasis added).

Four circuits have unanimously held that § 924(e)(2)(A)(ii) incorporates the federal drug schedules in effect at the time of the federal firearm offense to which the ACCA applies. In the decision below, however, the Eleventh Circuit accepted the government's express invitation to reject those circuit decisions. In doing so, the Eleventh Circuit held that § 924(e)(2)(A)(ii) instead incorporates the federal drug schedules that were in effect at the time of the defendant's prior state drug offense.

The question presented is:

Whether the "serious drug offense" definition in the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(A)(ii), incorporates the federal drug schedules that were in effect at the time of the federal firearm offense (as the Third, Fourth, Eighth, and Tenth Circuits have held), or the federal drug schedules that were in effect at the time of the prior state drug offense (as the Eleventh Circuit held below).¹

¹ A related question is presented in *Altman, et al. v. United States* (No. 22-5877) (response requested Nov. 16, 2022) and *Brown v. United States* (No. 22-6389) (docketed Dec. 23, 2022).

CONSOLIDATED WITH 22-6389 FOR ONE HOUR ARGUMENT.

CERT. GRANTED 5/15/2023