

No. 20-854

In the Supreme Court of the United States

LINDA JACKIE LARSON, PERSONAL REPRESENTATIVE OF
THE ESTATE OF KENNETH EARL LARSON, PETITIONER

v.

ANDREW M. SAUL, COMMISSIONER OF SOCIAL SECURITY

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

MEMORANDUM FOR THE RESPONDENT

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Petitioner contends (Pet. 17-23) that the court of appeals erred in determining that her late husband’s civil service pension, which he received for federal civilian employment as a dual-status military technician, is not a payment based wholly on his service as a member of a uniformed service and thus falls outside of the uniformed services exception to the Social Security Act’s windfall elimination provision.¹ On March 1, 2021, this Court granted the petition for a writ of certiorari in *Babcock v. Saul*, No. 20-480, to consider whether a civil service pension received for federal civilian employment as a “military technician (dual status),” 10 U.S.C.

¹ When Kenneth Larson passed away in July 2019, the court of appeals substituted as plaintiff Linda Larson, the personal representative of Kenneth Larson’s estate and petitioner in this case. See Pet. App. 6a n.2.

10216(a)(1)-(2); 32 U.S.C. 709, is “a payment based wholly on service as a member of a uniformed service,” 42 U.S.C. 415(a)(7)(A)(III), for the purposes of the Social Security Act’s windfall elimination provision. Because the Court’s decision in *Babcock* may affect the proper disposition of the petition for a writ of certiorari, the petition in this case should be held pending the decision in *Babcock* and then disposed of as appropriate in light of that decision.²

Respectfully submitted.

ELIZABETH B. PRELOGAR
Acting Solicitor General

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² The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.