

No. 21-767

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**In the Supreme Court of the United States**

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CLINTON WILLIAMS, PETITIONER

*v.*

UNITED STATES OF AMERICA

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

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**MEMORANDUM FOR THE UNITED STATES IN OPPOSITION**

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In the First Step Act of 2018, Pub. L. No. 115-391, Tit. IV, § 403(a), 132 Stat. 5221-5222, Congress amended the penalties for using or carrying a firearm during a crime of violence, in violation of 18 U.S.C. 924(c). Congress specified that the amendment “shall apply to any offense that was committed before the date of enactment of [the First Step Act], if a sentence for the offense has not been imposed as of such date of enactment.” § 403(b), 132 Stat. 5222.

Petitioner contends (Pet. 22-26) that Congress’s decision not to extend the First Step Act’s amendment to Section 924(c) to offenders who have already been sentenced can constitute an “extraordinary and compelling” reason for reducing a previously imposed final

sentence under 18 U.S.C. 3582(c)(1)(A).<sup>1</sup> This Court has recently denied petitions for writs of certiorari raising similar issues. See *Sutton v. United States*, No. 21-6010 (Jan. 24, 2022); *Corona v. United States*, No. 21-5671 (Jan. 18, 2022); *Tomes v. United States*, No. 21-5104 (Jan. 10, 2022); *Jarvis v. United States*, No. 21-568 (Jan. 10, 2022); *Watford v. United States*, No. 21-551 (Jan. 10, 2022); *Gashe v. United States*, No. 20-8284 (Jan. 10, 2022). The same result is warranted here.

For the reasons stated in the government’s brief in opposition to the petition for a writ of certiorari in *Jarvis, supra* (No. 21-568), the decision below correctly recognizes that the First Step Act’s amendment to Section 924(c) cannot serve as an “extraordinary and compelling” reason for a Section 3582(c)(1)(A) reduction to a preexisting sentence, either by itself or as an addition to other proffered factors. See Br. in Opp. at 12-16, *Jarvis, supra* (No. 21-568).<sup>2</sup> And although courts of appeals have reached different conclusions on the issue, the practical importance of the disagreement is limited, and the Sentencing Commission could promulgate a new policy statement that deprives a decision by this Court of any practical significance. See *id.* at 16-22; cf. *United States v. McCall*, 20 F.4th 1108, 1112-1114 (6th Cir. 2021) (suggesting, in case not involving the First Step Act, that First Step Act circuit precedent conflicts with earlier circuit decision and is nonbinding).

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<sup>1</sup> Other pending petitions for writs of certiorari raise similar issues. See *Tingle v. United States*, No. 21-6068 (filed Oct. 15, 2021); *Chantharath v. United States*, No. 21-6397 (filed Nov. 19, 2021).

<sup>2</sup> We have served petitioner with a copy of the government’s brief in opposition in *Jarvis*.

The petition for a writ of certiorari should be denied.<sup>3</sup>

Respectfully submitted.

ELIZABETH B. PRELOGAR  
*Solicitor General*

JANUARY 2022

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<sup>3</sup> The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.