

No. 17-9276

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IN THE  
Supreme Court of the United States

THILO BROWN,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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

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**SUPPLEMENTAL BRIEF FOR PETITIONER**

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**SUPPLEMENTAL BRIEF OF PETITIONER**

Pursuant to this Court's Rule 15.8, Petitioner Thilo Brown submits this supplemental brief to call the Court's attention to the Seventh Circuit's recent order denying rehearing and rehearing *en banc* in the consolidated cases of *Cross v. United States*, No. 17-2282, and *Davis v. United States*, No. 17-2724.

On June 7, 2018, a panel of the Seventh Circuit held that Cross's and Davis's § 2255 motions were timely under 28 U.S.C. § 2255(f)(3) because they asserted the right recognized in *Johnson v. United States*, 135 S. Ct. 2551 (2015), and were filed within one year of *Johnson*, and that petitioners were entitled to relief on the merits. *See Cross v. United States*, 892 F.3d 288 (7th Cir. 2018). On July 23, 2018, the government filed a petition for rehearing and rehearing *en banc*. On August 7, 2018, Cross and Davis filed their answer. In its memorandum in opposition in this case, the government argued that, because it had filed a petition for rehearing in *Cross*, the circuit conflict may soon resolve itself without the need for this Court's intervention. *See Brown Mem. Opp.* 3 (citing Br. in Opp. at 15, *Gipson v. United States* (No. 17-8637)).

On August 31, 2018, no judge in regular service having requested a vote on the petition for rehearing *en banc*, and all judges on the panel having voted to deny rehearing, the Seventh Circuit denied the government's petition. *See Order*, Nos. 17-2282 & 17-2724 (7th Cir. Aug. 31, 2018). For this reason and the further reasons stated in Mr. Brown's reply brief at pages 10-14, the circuit conflict will not resolve itself without this Court's intervention. And for all of the reasons stated in Mr.

Brown's petition and reply, the questions presented are of extraordinary importance, and this case is an excellent vehicle for resolving them. If the Court grants certiorari in another case, Mr. Brown asks that his case be held pending the Court's decision.

Respectfully submitted,

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