



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

January 26, 2024

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Timothy I. Carpenter v. United States of America, No. 23-531

Dear Mr. Harris:

The petition for a writ of certiorari in the above-captioned case was filed on November 15, 2023, and the government filed its response on January 17, 2024. The petition presents the question whether Section 403 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5221-5222, which reduced certain mandatory consecutive sentences under 18 U.S.C. 924(c) for “any offense that was committed before the date of enactment of [the] Act, if a sentence for the offense has not been imposed as of such date,” applies at a defendant’s post-Act resentencing following the vacatur of the defendant’s pre-Act sentence. The government’s brief in opposition explained that certiorari is unwarranted, in part because the Sixth Circuit might choose to revisit en banc its outlier view on that question. See Gov’t Br. in Opp. 12-14.

I write to inform that Court that, on January 25, 2024, the Sixth Circuit requested the government’s response to the defendant’s en banc petition in United States v. Kenneth Jackson, Jr., which presents the question. See Order, No. 22-3958 (6th Cir. Jan. 25, 2024). The government intends to acquiesce in the en banc petition, agreeing with the defendant that review is warranted because it would allow the Sixth Circuit to eliminate the conflict. I would appreciate it if you could circulate this letter and the attachment to the Members of the Court.

Sincerely,

Elizabeth B. Prelogar
Solicitor General

Encl.: Order, United States v. Kenneth Jackson, Jr., No. 22-3958 (6th Cir. Jan. 25, 2024)
cc: See Attached Service List

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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Clerk

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Filed: January 25, 2024

Mr. Matthew B. Kall
Office of the U.S. Attorney
801 W. Superior Avenue
Suite 400
Cleveland, OH 44113

Re: Case No. 22-3958, *USA v. Kenneth Jackson, Jr.*
Originating Case No.: 1:15-cr-00453-1

Dear Mr. Kall,

This is to advise that the court directs you to file a response to the petition for rehearing en banc in the above case.

Your response, not to exceed 3900 words, must be filed not later than the close of business on Thursday, **February 8, 2024**.

Please note that no extensions will be granted.

Sincerely yours,

s/Beverly L. Harris
En Banc Coordinator
Direct Dial No. 513-564-7077

cc: Mr. Kevin M. Cafferkey

23-0531
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