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Mr. Scott Harris
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Re: **Samuel Valencia v.
United States of America,
No. 23-5606**

Dear Mr. Harris:

In its brief, the United States agrees with Valencia that the U.S. Constitution requires that facts to prove a defendant's prior convictions were for offenses "committed on occasions different from one another" must be alleged in the indictment and either proven to a jury beyond a reasonable doubt or admitted to by the defendant for purposes of increasing the punishment under the Armed Career Criminal Act, 18 U.S.C. § 924(e). The Government identifies two other petitions raising this same issue. *See Erlinger v. United States*, No. 23-370; *United States v. Thomas*, No. 23-5457. The Government has recommended certiorari be granted in *Erlinger*, while recognizing that Valencia's petition would be an adequate alternative. Valencia requests that if the Court does not grant certiorari in his petition, it hold his petition pending disposition of the petitions in *Erlinger* or *Thomas*. Accordingly, Valencia waives his right to reply under Supreme Court Rule 15.5.

Thank you for your attention to this matter.

Very truly yours,

MAUREEN SCOTT FRANCO
Federal Public Defender

/s/ Judy Fulmer Madewell
JUDY FULMER MADEWELL
First Assistant Federal Public Defender

cc: Paul T. Crane, Attorney, Department of Justice
Mr. Samuel Valencia