

IN THE SUPREME COURT OF THE UNITED STATES

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OSCAR VIRGILIO PERDOMO, 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 FIFTH CIRCUIT

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MEMORANDUM FOR THE UNITED STATES

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No. 16-7214

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Petitioner contends (Pet. 8-21) that 18 U.S.C. 16(b), as incorporated into the definition of the term "aggravated felony" contained in 8 U.S.C. 1326(b)(2), is unconstitutionally vague. The question petitioner presents is related to the issue currently before this Court in Lynch v. Dimaya, cert. granted, No. 15-1498 (Sept. 29, 2016). That case concerns whether Section 16(b), as incorporated into the Immigration and Nationality Act's provisions governing an alien's removal from the United States, is unconstitutionally vague. Because the proper disposition of the petition for a writ of certiorari may be affected by the Court's

resolution of Dimaya, the petition should be held pending the decision in that case and then disposed of as appropriate in light of that decision.\*

Respectfully submitted.

IAN HEATH GERSHENGORN  
Acting Solicitor General  
Counsel of Record

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\* The government waives any further response to the petition unless this Court requests otherwise.