

No. 23-5149

IN THE SUPREME COURT OF THE UNITED STATES

JAVIER ESCALERA, JR., ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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Petitioners contend (Pet. 10-19) that a defendant is eligible for safety-valve relief under 18 U.S.C. 3553(f)(1) so long as he does not have every single one of the criminal-history factors specified in the subparagraphs of that provision. This Court granted certiorari in Pulsifer v. United States, 143 S. Ct. 978 (2023) (No. 22-340) (oral argument scheduled for Oct. 2, 2023), to consider whether that interpretation of Section 3553(f)(1) is correct. The petition for a writ of certiorari should therefore

be held pending the Court's decision in Pulsifer and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

AUGUST 2023

* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.