

No. 25-5003

In the Supreme Court of the United States

ERIC RICHARD GARZA,

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Fifth Circuit at New Orleans, Louisiana

SUPPLEMENTAL BRIEF IN SUPPORT OF
PETITIONER'S PETITION FOR A WRIT OF CERTIORARI

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This supplemental brief is being filed pursuant to Sup. Ct. R. 15.8, to inform this Court of a pending certiorari petition that this writer believes relates to the same issue raised in this certiorari petition. In *Arturo Garza, Jr. v. United States*, Sup. Ct. No. 24-7396, filed June 9, 2025 and docketed June 11, 2025, Arturo Garza, Jr. is asking this Court to resolve a split among the circuits on whether the mandate rule allows a district court to consider convictions that occurred between a defendant’s first and second sentencing hearings when resentencing is ordered on appeal. On August

12, 2025, this Court requested a response from the government to that certiorari petition, which is due September 11, 2025. The *Arturo Garza, Jr.* certiorari petition has been distributed for the September 29, 2025 conference.

Petitioner Eric Richard Garza's certiorari petition at bar has also been distributed for that same September 29, 2025 conference, but no response from the government has yet been requested by this Court. Eric Richard Garza's certiorari petition concerns whether the district court erred at resentencing after the Fifth Circuit vacated one of his convictions, affirmed the remaining conviction, and remanded to the district court for resentencing. At resentencing, the district court recalculated Eric Richard Garza's sentence on the remaining conviction, and imposed a longer term of imprisonment of 144 months, rather than the 78 months term originally imposed at the first sentencing. Eric Richard Garza argued on appeal that this violated the Fifth Circuit's restrictive interpretation of the mandate rule which does not permit a *de novo* resentencing, and that he should have received the 78 months sentence originally imposed for the remaining count of conviction, not the 144 months sentence that the district court imposed at resentencing, but the Fifth Circuit disagreed.

Since the *Arturo Garza, Jr.* certiorari petition requests review on whether a district court may consider subsequent convictions occurring between a first and second sentencing when resentencing is ordered on appeal, petitioner's counsel believes that if certiorari is granted in the *Arturo Garza, Jr.* certiorari petition, then this Court should either grant certiorari in the *Eric Richard Garza* certiorari petition

at bar, or issue an order granting, vacating and remanding to the United States Court of Appeals for the Fifth Circuit for reconsideration based upon this Court's decision in the *Arturo Garza, Jr.* certiorari petition, if certiorari is granted in that case.

Respectfully submitted,

/s/ *Gregory Sherwood*

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