

IN THE SUPREME COURT OF THE UNITED STATES

No. 25-5343

KENDRICK JARRELL BEAIRD, PETITIONER

v.

UNITED STATES

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

MOTION OF THE UNITED STATES FOR DIVIDED ORAL ARGUMENT

Pursuant to Rules 21, 28.3, and 28.4 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for divided argument in this case. The United States requests that petitioner, the United States, and the appointed amicus curiae each be allowed 20 minutes for argument. Counsel for petitioner and the Court-appointed amicus curiae both consent to this motion.

Petitioner primarily argues in his merits brief that “[t]he Court should disavow” Stinson v. United States, 508 U.S. 36 (1993), because courts should afford no deference to Sentencing Guidelines commentary. Pet. Br. 11; see id. at 14-34, 42-45. The United States instead argues (and petitioner briefly argues in the

alternative) that Stinson is properly understood in light of Kisor v. Wilkie, 588 U.S. 558 (2019), to incorporate limits that apply to an agency's interpretation of its own regulations. U.S. Br. 14-28; see Pet. Br. 34-40. The appointed amicus argues that Stinson correctly requires that guidelines commentary "must be given 'controlling weight unless it is plainly erroneous or inconsistent with the regulation,'" Stinson, 508 U.S. at 45 (quoting Bowles v. Seminole Rock & Sand Co., 325 U.S. 410, 414 (1945)), and that Kisor's limits are inapplicable. Amicus Br. 18-51.

The proposed division of oral argument among petitioner, the United States as the respondent, and the appointed amicus reflects the respective scope of the arguments of each and is likely to be of material assistance to the Court. In similar circumstances involving partial disagreement between the parties, neither of which defended the judgment of the court of appeals, the Court has adopted a similar time arrangement. Cf. Bowe v. United States, 146 S. Ct. 76 (2025) (granting motion for 25-25-15 division of oral argument where the Court appointed the amicus curiae to defend the court of appeals' judgment on only one of the questions presented); Beckles v. United States, 580 U.S. 986 (2016) (No. 15-8544) (same). In this case, the parties and the amicus provide three alternative answers for one issue, which warrants the equal 20-20-20 minute division to which they all have agreed.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

AUGUST 2025