

IN THE SUPREME COURT OF THE UNITED STATES

JOHN NOCK, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the Sixth Amendment required the district court to grant petitioner's request for new appointed counsel.

2. Whether petitioner is entitled to relief on plain-error review based on his contention that the government's investigator improperly exceeded the permissible bounds of lay-witness testimony.

3. Whether the district court erred in calculating the "loss" attributable to petitioner's offense for purposes of Sentencing Guidelines § 2B1.1(b) (1) (2021).

ADDITIONAL RELATED PROCEEDINGS

United States District Court (W.D. Ark.):

United States v. Nock, 5:22-cr-50012 (Mar. 20, 2024)

United States Court of Appeals (8th Cir.):

United States v. Nock, No. 24-1603 (Aug. 7, 2025)

IN THE SUPREME COURT OF THE UNITED STATES

No. 25-6158

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 1-13) is reported at 148 F.4th 607.

JURISDICTION

The judgment of the court of appeals was entered on August 7, 2025. The petition for a writ of certiorari was filed on November 3, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Western District of Arkansas, petitioner was convicted on

one count of conspiring to commit wire fraud, in violation of 18 U.S.C. 1349; nine counts of wire fraud, in violation of 18 U.S.C. 1343; one count of conspiring to commit money laundering, in violation of 18 U.S.C. 1956(h); and one count of money laundering, in violation of 18 U.S.C. 1957. Judgment 1. The district court sentenced petitioner to 250 months of imprisonment, to be followed by three years of supervised release. Id. at 2-3. The court of appeals affirmed. Pet. App. 1-13.

1. Between 2013 and 2021, petitioner, Brian Brittsan, and two other coconspirators engaged in a scheme to defraud victims who invested in their purported investment firm, known as The Brittingham Group (Brittingham). Pet. App. 4; see Indictment 1-3; cf. United States v. Ituma, No. 24-1715, 2025 WL 1689614 (8th Cir. 2025) (per curiam). Petitioner and Brittsan solicited the victims to invest large sums of money in Brittingham, promising substantial and rapid financial returns. Pet. App. 4. To do so, they misled the victims in various ways, including by falsely representing that Brittingham was a Wall Street firm that pursued legitimate investments and had a history of successful investing. Id. at 4-5. They also created fraudulent documents on the letterhead of third-party financial institutions indicating that the victims' money would not be at risk. Id. at 5.

The victims were directed to transfer money to accounts controlled by the coconspirators, which was then further transferred "through a complex web of bank accounts throughout the

world.” Pet. App. 5. The coconspirators obtained more than \$26.1 million from 17 victims, none of whom received any return on their investments. Presentence Investigation Report (PSR) ¶ 343 (finding petitioner is responsible for the entire amount); see Pet. App. 5.¹ After petitioner learned of the government’s criminal investigation into his scheme, two victims were able to secure the return of their \$5 million and \$2.5 million investments. PSR ¶¶ 183, 245, 255, 343; see Sent. Tr. 13-15. The other victims, however, lost all but \$40,000 of their more than \$18.6 million aggregate investment. PSR ¶¶ 343-344; see Pet. App. 5.

2. In March 2022, a federal grand jury indicted petitioner on one count of conspiring to commit wire fraud, in violation of 18 U.S.C. 1349; nine counts of wire fraud, in violation of 18 U.S.C. 1343; one count of conspiring to commit money laundering, in violation of 18 U.S.C. 1956(h); and one count of money laundering, in violation of 18 U.S.C. 1957. Indictment 5-9. The district court promptly appointed counsel for petitioner. D. Ct. Docket Entry No. 19 (Mar. 23, 2022).

In June 2023, less than two months before trial, petitioner moved the district court to remove his appointed counsel, allow him to obtain another attorney, and grant additional time for the

¹ The trial testimony showed that 15 of the victims had invested over \$26.2 million. PSR ¶¶ 254-255. That total is slightly higher than the \$26.1 million reflected in the presentence report because of minor differences in the exchange rate used to calculate the dollar equivalent of several investments totaling 13.125 million euros. Compare ibid. with PSR ¶ 343.

new attorney to review the case and develop a defense. Pet. App. 5; see D. Ct. Docket Entry No. 70 (June 26, 2023). In response, his appointed counsel informed the court that he would be “fully prepared to go to trial” by the trial date; had already reviewed an “enormous amount of discovery in [petitioner’s] case”; had repeatedly met with counsel for petitioner’s codefendants to coordinate a joint defense; had never denied petitioner -- who was free to visit his office at any time -- a meeting or call; had scheduled three meetings that petitioner had “chosen to miss”; and had ultimately determined that petitioner’s case was “straight-forward” notwithstanding “the voluminous discovery.” D. Ct. Doc. 72, ¶¶ 2, 4-5, 7-9 (June 27, 2023). Petitioner’s appointed counsel also made clear that he had recently informed petitioner of the relevant scheduling for trial and that they would soon “step up [their] meetings on a significant basis” once the government had focused the case by disclosing its “witnesses” and “exhibits.” Id. ¶¶ 3, 6, 9; see Pet. App. 5.

The district court referred petitioner’s motion to a magistrate judge, who denied petitioner’s request after a hearing. Pet. App. 5-6; see D. Ct. Doc. 77 (June 30, 2023). The magistrate judge found that petitioner’s appointed counsel had been working effectively on the case and observed that, in her experience, he was an “‘effective,’” “‘experienced,’ ‘smart,’ and ‘canny’” criminal-defense attorney. Pet. App. 5 (brackets omitted). The judge also observed that petitioner and his appointed counsel “were ‘on the

culp' of 'rolling up their sleeves'" for trial. Ibid. (brackets omitted). The judge stated that petitioner had "'the right counsel to be ready for trial'" but "invited [petitioner] to renew his request for new counsel if the circumstances changed." Id. at 5-6.

Rule 59(a) of the Federal Rules of Criminal Procedure provides that a party may object to a magistrate judge's order on a non-dispositive matter that has been referred to the judge within 14 days of service of the order. Fed. R. Crim. P. 59(a). Rule 59(a) further provides that "[f]ailure to object in accordance with this rule waives a party's right to review." Ibid. Petitioner neither objected to the magistrate judge's order nor renewed his request for new counsel. Pet. App. 6.

The jury found petitioner guilty on all 12 counts of the indictment. Judgment 1.

3. Section 2B1.1 of the Sentencing Guidelines provides for a 20-level enhancement if the "loss" associated with a fraud offense is more than \$9.5 million, and a 22-level enhancement if the "loss" is more than \$25 million. Sentencing Guidelines § 2B1.1(b)(1)(K) and (L) (2023).² Since November 2024, Section 2B1.1 has instructed that "[l]oss" means "the greater of actual loss or intended loss." Sentencing Guidelines § 2B1.1(b)(1), note (A) (2025). Under the earlier version of the Guidelines applicable to petitioner's case,

² Unless otherwise noted, all citations to the Sentencing Guidelines in this brief refer to the 2023 edition used at petitioner's sentencing. Cf. PSR ¶ 349.

Application Note 3 to Section 2B1.1 specified that "loss is the greater of actual loss or intended loss." Sentencing Guidelines § 2B1.1, comment. (n.3(A)).

At sentencing, petitioner challenged the Probation Office's calculation of the advisory Sentencing Guidelines range for his term of imprisonment, which included a 22-level enhancement under Section 2B1.1 for the \$26.1 million "intended loss" for his offenses. Sent. Tr. 9-12; see PSR ¶ 352. Petitioner argued that only a 20-level enhancement was warranted because the "loss"-based enhancement should be based on "actual loss," not "intended loss." Sent. Tr. 10-11.

The district court overruled petitioner's objection in reliance on circuit precedent. Sent. Tr. 15-16 (citing United States v. Suhl, 885 F.3d 1106, 1117 (8th Cir.), cert. denied, 586 U.S. 824 (2018)). The court then calculated petitioner's advisory guidelines range to be 324 to 405 months. Id. at 41-42. But it sentenced petitioner to a below-guidelines sentence of 250 months of imprisonment, to be followed by three years of supervised release. Id. at 81-82.

3. The court of appeals affirmed. Pet. App. 1-13.

The court of appeals first upheld the denial of petitioner's request for new counsel. Pet. App. 5-6. As a threshold matter, the court observed that petitioner "failed to object to the magistrate judge's denial of his request" and that, under Rule 59(a), he therefore "waived his right to seek review in [the court

of appeals].” Id. at 6. The court noted petitioner’s contention that it should “excuse his failure to object” under an “interests of justice” exception to Rule 59(a)’s requirements. Ibid. But the court explained that “even if [it] agreed” that such an exception was warranted, the magistrate judge did not “abuse [her] discretion” by denying petitioner’s request. Ibid. The court emphasized that the decision whether to substitute counsel is “committed to the sound discretion” of the trial judge and that the judge’s “discretion is at its zenith” when the request is made shortly before trial. Ibid. (citation omitted). And it found that the magistrate judge “acted within her ample discretion” denying petitioner’s request. Ibid.

The court of appeals saw “no reason to second-guess” the magistrate judge’s judgment. Pet. App. 6. The court observed that “no irreconcilable conflict or complete breakdown in communication” had occurred between petitioner and his counsel; that petitioner’s concerns about his counsel “seem[ed] to reflect ‘the reality that [a criminal defendant] is often genuinely unhappy with an appointed counsel who is nonetheless doing a good job’”; that the magistrate judge was “familiar with [appointed counsel]’s record as an attorney and believed that he was the right person for the job notwithstanding [petitioner’s] concerns”; and that, “[t]elling[ly],” petitioner never “renew[ed] his request for new counsel before trial began, as he was invited to do if the

circumstances suggested that [appointed counsel] was not in fact" adequately "prepar[ing] for trial." Ibid. (citation omitted).

The court of appeals separately rejected petitioner's challenge to the trial testimony of the government's lead investigator because petitioner failed to "timely object" to that testimony and had failed to establish any "plain [evidentiary] error." Pet. App. 7-8. The court noted that its decisions have warned against lay witnesses using "'narrative gloss'" to supply their own view of what evidence means, but it found that the investigator here "offered little if any 'narrative gloss'" and, ultimately, did not provide testimony so objectionable that the district court should have been expected to exclude it without an objection from petitioner. Id. at 8 (citation omitted). And the court of appeals determined that, in any event, any evidentiary error had "no effect on [petitioner's] substantial rights" because any narrative phrases in the investigator's testimony were "sporadic and fleeting," concerned only incidental matters over a nine-day trial, and did not "call the jury's verdict into doubt." Ibid.

With respect to petitioner's sentence, the court of appeals observed that its precedent "foreclose[d]" petitioner's contention that the district court had miscalculated the advisory guidelines range by applying Section 2B1.1's enhancement based on the "intended," rather than just the "actual[]," loss from his crimes. Pet. App. 10-11. The court noted that the district court's approach was consistent with the official "commentary" to Section

2B1.1 “in effect at the time [petitioner] was sentenced,” which provided that “loss is the greater of actual loss or intended loss.” Id. at 10 (quoting Sentencing Guidelines § 2B1.1, comment. (n.3(A))). The court of appeals stated that this Court had “called on courts to defer to Guidelines commentary” in Stinson v. United States, 508 U.S. 36 (1993); observed that it had continued to do so after this Court’s decision in Kisor v. Wilkie, 588 U.S. 558 (2019); and cited post-Kisor decisions in which it had applied the approach to loss described in the application note. Pet. App. 10-11.

ARGUMENT

Petitioner renews his contentions that the Sixth Amendment required the district court to replace his appointed counsel, Pet. 9-13; that trial testimony from the government’s lead investigator exceeded the permissible scope of lay-witness testimony, Pet. 13-14; and that the district court’s calculation of the “loss” attributable to him under Sentencing Guidelines § 2B1.1 rests on deference to the Commission’s commentary that is no longer appropriate under Kisor v. Wilkie, 588 U.S. 558 (2019), Pet. 14-16. The court of appeals correctly rejected those contentions, and the petition presents no issue warranting this Court’s review.

1. The Sixth Amendment guarantees a criminal defendant the right to assistance of counsel for his defense. U.S. Const. Amend. VI. Petitioner does not dispute that once counsel has been appointed, the appointment of new counsel is warranted under Eighth

Circuit precedent “only when the defendant demonstrates justifiable dissatisfaction with his appointed attorney.” United States v. Barrow, 287 F.3d 733, 737 (8th Cir.), cert. denied, 537 U.S. 1024 (2002). And here, after exploring petitioner’s reasons for requesting new counsel during a hearing dedicated to that issue, a magistrate judge determined that petitioner’s request was not justified because counsel had been appropriately working on the case and was on the cusp of working with petitioner to “roll[] up their sleeves” and prepare for trial once the government produced its witness and exhibit lists. Pet. App. 5 (brackets omitted). The court of appeals correctly rejected petitioner’s challenge to that determination.

To begin with, petitioner did not object to the magistrate judge’s ruling in district court. Pet. App. 6. Rule 59(a) of the Federal Rules of Criminal Procedure provides that objections to a magistrate judge’s order must be filed within 14 days and that the “[f]ailure to object in accordance with this rule waives a party’s right to review.” Petitioner neither addresses his failure to object nor explains why his failure to present his objection to the district court -- which never considered the issue -- could properly be excused.

In any event, the court of appeals permissibly determined that the magistrate judge “acted within her ample discretion” in denying new appointed counsel here. Pet. App. 6. That decision, which the court of appeals reviewed for an abuse of discretion,

ibid., does not warrant this Court's review. This Court "do[es] not grant * * * certiorari to review evidence and discuss specific facts." United States v. Johnston, 268 U.S. 220, 227 (1925); see Sup. Ct. R. 10. And review is particularly unwarranted here because petitioner's factual recitation appears inconsistent with the record. Compare, e.g., Pet. 11 (asserting that appointed counsel "admitted that he had not reviewed the voluminous discovery materials" and "had no intention to do so"), with D. Ct. Doc. 72, ¶ 2 (Osborne's representation that he had already "reviewed an enormous amount of discovery" in the case two months before trial).

Although petitioner asserts (Pet. 11-12) that the court of appeals' decision conflicts with Wheat v. United States, 486 U.S. 153 (1988), and Morris v. Slappy, 461 U.S. 1 (1983), neither of those decisions suggests any error in the proceedings below. In Wheat, this Court determined that a district court did not abuse its discretion by declining to allow an attorney selected by Wheat (not appointed by a court) to represent Wheat given the potential conflict of interest posed by the attorney's parallel representation of Wheat's coconspirators. 486 U.S. at 158-164; see id. at 155-156. And in Slappy, the Court upheld a district court's denial of a request to continue a trial after Slappy's appointed counsel was hospitalized and experienced counsel from the same public defender's office was substituted six days before the trial began. 461 U.S. at 5-6, 11-12.

Petitioner quotes (Pet. 12) from this Court's observation in Slappy that "only an unreasoning and arbitrary 'insistence upon expeditiousness in the face of a justifiable request for delay' [would] violate[] the right to the assistance of counsel," Slappy, 461 U.S. at 11-12 (citation omitted). But he provides no sound basis for concluding that those circumstances existed here. Indeed, in Slappy itself, the Court found that denying the continuance was "far from an abuse of discretion" because counsel had credibly represented that "he was fully prepared and 'ready' for trial." Id. at 12. The lower courts in this case made an analogous finding that appointed counsel was appropriately preparing. See Pet. App. 6. And under what the Court "ha[s] called the 'two-court rule,' the policy" against granting certiorari in factbound cases "has been applied with particular rigor" where, as here, the "district court and court of appeals are in agreement as to what conclusion the record requires." Kyles v. Whitley, 514 U.S. 419, 456-457 (1995) (Scalia, J., dissenting); see Graver Tank & Mfg. Co. v. Linde Air Prods. Co., 336 U.S. 271, 275 (1949).

2. Petitioner separately contends (Pet. 13-14) that the government's lead investigator exceeded the permissible bounds of lay-witness testimony under Federal Rule of Evidence 701 and "rendered inadmissible opinions" by "testif[ying] to legal conclusions," "interpret[ing] emails" and "bank documents," "evaluat[ing] credibility," and "endors[ing] the government's case." The court of appeals reviewed the trial transcripts and determined

that petitioner's "characterizations of [the investigator's] testimony are more rhetoric than reality," finding that the investigator's testimony was permissible and mostly "consisted simply of him reading documentary evidence." Pet. App. 7-8. That fact-bound determination does not warrant review. Johnston, 268 U.S. at 227; see Sup. Ct. R. 10.

Certiorari is particularly unwarranted because petitioner failed to timely object to the investigator's testimony, limiting appellate review to review for plain error. Pet. App. 7; see Fed. R. Crim. P. 52(b). To establish a reversible plain error, petitioner had to carry his burden of establishing (1) an error that (2) is "plain" or "obvious" and that (3) affected his "substantial rights" by adversely "affect[ing] the outcome of the district court proceedings" and (4) "seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings." United States v. Olano, 507 U.S. 725, 732, 734-736 (1993) (citations omitted); see Puckett v. United States, 556 U.S. 129, 135 (2009). Petitioner fails to acknowledge the plain-error standard, let alone establish that the court of appeals erred in applying it. Petitioner, for instance, does not address the court of appeals' determination that "any [evidentiary] errors [were] not plain." Pet. App. 8; see id. at 7-8. Nor does he address the independently dispositive determination that even if they were, the relevant testimony had "no effect on [petitioner's] substantial rights." Id. at 8.

3. Finally, petitioner renews his contention (Pet. 14-16) that the "loss" attributable to him under Sentencing Guidelines § 2B1.1 consists of "actual loss," not the "intended loss," from his offense, and that deference to the Commission's commentary in former Application Note 3(A) to Section 2B1.1 is unwarranted under Kisor. That contention does not warrant further review.

In Stinson v. United States, 508 U.S. 36 (1993), this Court addressed the role of Guidelines commentary and determined that "commentary in the Guidelines Manual that interprets or explains a guideline is authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous reading of, that guideline." Id. at 38. In making that determination, the Court drew an "analogy," albeit one that it acknowledged was "not precise," to the principles of deference applicable to an executive agency's interpretation of its own regulations. Id. at 44. The Court stated that, under those principles, as long as the "agency's interpretation of its own regulations does not violate the Constitution or a federal statute, it must be given 'controlling weight unless it is plainly erroneous or inconsistent with the regulation.'" Id. at 45 (quoting Bowles v. Seminole Rock & Sand Co., 325 U.S. 410, 414 (1945)).

In Kisor, however, the Court clarified that such Seminole Rock deference (also called Auer deference) applies, among other things, only where a federal regulation is "genuinely ambiguous." Kisor, 588 U.S. at 573-575; see id. at 563. The government has

accordingly taken the position, including in this Court, that Kisor sets the standard for determining whether particular Guidelines commentary is entitled to deference. See, e.g., Br. in Opp. at 17, Poore v. United States, No. 25-227 (Nov. 19, 2025); Br. in Opp. at 15, Tabb v. United States, 141 S. Ct. 2793 (2021) (No. 20-579). To the extent that petitioner argues that Kisor now governs the degree of deference owed to an agency's interpretation of its regulations, the government agrees.

However, for reasons set forth in the government's brief in opposition in Zheng v. United States, 145 S. Ct. 1899 (2025) (denying certiorari), that question does not warrant this Court's review. As explained in that brief, Section 2B1.1's reference to "loss" would include both actual and intended loss under either the Stinson or Kisor framework, and nearly every court of appeals to consider the issue has rejected petitioner's view that the "intended loss" commentary is invalid, whether under Stinson or Kisor. See Br. in Opp. at 17-18, Zheng, supra (No. 24-604). Only the Third Circuit has reached a contrary conclusion. See United States v. Banks, 55 F.4th 246 (2022) (cited at Pet. 15).³ But as

³ Petitioner's suggestion (Pet. 16) that other courts have followed Banks is incorrect. Petitioner identifies an unpublished district court decision arising in the Fourth Circuit, ibid. (citing United States v. Wheeler, No. 5:22-cr-38, 2023 WL 4408939 (E.D.N.C. July 6, 2023)), but the Fourth Circuit has itself determined based on Kisor that the term "loss" in Section 2B1.1 is genuinely ambiguous and that former Application Note 3(A) embodies a reasonable interpretation warranting deference. See United States v. Boler, 115 F.4th 316, 322-328 (4th Cir. 2024). Petitioner suggests that the Sixth Circuit supports his position, Pet.

explained in the government's brief in opposition in Zheng, that outlier decision, however, furnishes no substantial basis for further review in this case. See Br. in Opp. at 19, Zheng, supra; see also Br. in Opp. at 15-17, Ratzloff v. United States, 144 S. Ct. 554 (2024) (No. 23-310) (explaining that the question of deference to the Commission's commentary more generally does not warrant review).

This Court's denials of certiorari in Zheng and Ratzloff v. United States are part of a long series of denials. The Court has recently and repeatedly denied petitions for writs of certiorari seeking review of questions concerning the applicability of Kisor to the Guidelines. See, e.g., Munoz v. United States, No. 25-5114 (Oct. 6, 2025); Elwell v. United States, No. 25-5110 (Oct. 6, 2025); Cook v. United States, 145 S. Ct. 2830 (2025) (No. 24-7265); Zheng v. United States, 145 S. Ct. 1899 (2025) (No. 24-604); see also, e.g., Br. in Opp. at 10 n.2, Zheng, supra (citing 17 additional denials of certiorari petitions seeking review of

16 (citing United States v. Riccardi, 989 F.3d 476 (2021)), but the Sixth Circuit has similarly "defer[red] to the Sentencing Commission's interpretation of 'loss'" in former Application Note 3(A) under "the framework set forth in Kisor" and held that "loss" includes "intended loss." United States v. You, 74 F.4th 378, 397-398 (6th Cir. 2023). Finally, petitioner cites (Pet. 16) United States v. Kirilyuk, 29 F.4th 1128 (9th Cir. 2022), but Kirilyuk addresses a different application note for credit-card-fraud offenses that Kirilyuk described as effectively "'defin[ing] the 'loss' from a stolen [credit] card as an automatic \$500' rather than a fact-specific amount." Id. at 1138 (discussing Sentencing Guidelines § 2B1.1 cmt. (n.3(F)(i)) (citations omitted; brackets in original)).

similar Kisor-based challenges to the Guidelines commentary). The Court should follow the same course here.⁴

Review is particularly unwarranted because the Commission has undertaken a “multiyear study of the Guidelines Manual to address case law concerning the validity and enforceability of guideline commentary, and possible consideration of amendments that might be appropriate.” 88 Fed. Reg. 60,536, 60,537 (Sept. 1, 2023). As part of that ongoing study, the Commission deleted former Application Note 3(A) to Section 2B1.1 and, in its place, amended Section 2B1.1’s text to directly define “[l]oss” to mean “the greater of actual loss or intended loss,” Sentencing Guidelines § 2B1.1(b)(1), note (A) (2025). See pp. 5-6, supra. The Commission adopted that amendment specifically to resolve the division of authority created by the Third Circuit’s outlier decision in Banks, supra, by moving the definition of “loss” “from the commentary to the guideline itself.” 88 Fed. Reg. 89,142, 89,143-89,144 (Dec. 26, 2023). Although the amendment to Section 2B1.1 is not retroactive, it both ensures that any division of authority regarding intended loss will have limited prospective importance and underscores why this Court’s review is unwarranted

⁴ Other petitions raising a similar issue are currently pending in this Court. See Poore, supra (No. 25-227); Oladokun v. United States, No. 25-5964 (filed May 12, 2025); James v. United States, No. 25-6267 (filed July 30, 2025); Stewart v. United States, No. 25-6038 (filed Oct. 31, 2025); Beaird v. United States, No. 25-5343 (filed Aug. 11, 2025); Rahmankulov v. United States, No. 25-6464 (filed Dec. 24, 2025); Baldwin v. United States, No. 25-6679 (filed Nov. 6, 2025).

in this Guidelines context. See Braxton v. United States, 500 U.S. 344, 348 (1991) (explaining that this Court should be “restrained and circumspect in using [its] certiorari power” to resolve Guidelines issues in light of the Commission’s “statutory duty ‘periodically to review and revise’ the Guidelines”) (brackets and citation omitted).⁵

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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⁵ Copies of the government’s briefs in opposition in Poore, supra (No. 25-227), Zheng, supra (No. 24-604), Ratzloff, supra (No. 23-310), and Tabb, supra (No. 20-579), are being served on petitioner. They are also publicly available at the Court’s online docket, <https://www.supremecourt.gov/docket/docket.aspx>.