

No. 25-6218

IN THE SUPREME COURT OF THE UNITED STATES

KENLEONE JOE NYANDORO, PETITIONER

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

D. JOHN SAUER
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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Petitioner contends (Pet. 13-15) that he should be permitted to appeal his conviction and sentence notwithstanding a provision in his plea agreement waiving those rights, subject to certain exceptions that do not encompass his present challenge. See Pet. App. a4. Petitioner further contends (Pet. 15-17) that he should be permitted to appeal notwithstanding his appeal waiver because the district court stated during sentencing that he had a right to appeal and the government did not object. This Court granted the writ of certiorari in Hunter v. United States, No. 24-1063 (Oct. 10, 2025), to consider the potential circumstances under which a

defendant may appeal his sentence notwithstanding an appeal waiver in his plea agreement, including where the district court stated that the defendant that he had a right to appeal and the government did not object.

In addition, one of the claims that petitioner is pursuing (Pet. 17-19) notwithstanding his appeal waiver is an as-applied Second Amendment challenge to 18 U.S.C. 922(g)(3), which prohibits a person from possessing a firearm if he "is an unlawful user of or addicted to any controlled substance." This Court is currently considering an as-applied Second Amendment challenge to Section 922(g)(3) in United States v. Hemani, cert. granted, No. 24-1234 (Oct. 20, 2025).

Because the Court's decisions in Hunter and Hemani may affect the proper disposition of the petition for a writ of certiorari, the petition in this case should be held pending the decisions in Hunter and Hemani and then disposed of as appropriate in light of those decisions.*

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JANUARY 2026

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