

No. 25-6411

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

GREGORY JOHNSON, JR., 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

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

No. 25-6411

GREGORY JOHNSON, JR., 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

---

Petitioner contends (Pet. 6-13) that he should be permitted to appeal the district court's application of a career-offender enhancement to his advisory Sentencing Guidelines range notwithstanding a provision in his plea agreement waiving that right, subject to certain exceptions not applicable here, see Plea Agreement 2-3, on the theory that enforcement of the appeal waiver would result in a "miscarriage of justice," or that the appeal waiver was "inherently unknowing and involuntary" because he could not predict what would happen at sentencing. Pet. 6-7; see *id.* at 6-13; Pet. App. A1-A2. This Court granted a writ of certiorari in

Hunter v. United States, No. 24-1063 (oral argument scheduled for Mar. 3, 2026), to consider, inter alia, the potential circumstances under which a defendant may appeal his sentence notwithstanding an appeal waiver in his plea agreement. Because the Court's decision in Hunter may affect the proper disposition of the petition for a writ of certiorari, the petition in this case could be held pending the decision in Hunter and then disposed of as appropriate in light of that decision.\*

Respectfully submitted.

D. JOHN SAUER  
Solicitor General

FEBRUARY 2026

---

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