

No. 25-7302

IN THE SUPREME COURT OF THE UNITED STATES

DALE D. MITCHELL, JR., PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES

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MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 32-39) that the court of appeals erred by deferring to the Sentencing Commission's former commentary interpreting the term "crime of violence" in Sentencing Guidelines § 4B1.2(a) (2021) to classify him as a career offender under Sentencing Guidelines § 4B1.1 based on his prior conviction for attempted robbery. This Court has granted a writ of certiorari in Beaird v. United States, No. 25-5343 (Apr. 20, 2026), to consider whether Stinson v. United States, 508 U.S. 36 (1993), still correctly states the rule for the deference that courts must give the commentary to the Sentencing Guidelines. Because the Court's

decision in Beaird could conceivably affect the proper disposition of the petition for a writ of certiorari, the petition in this case should be held pending this Court's decision in Beaird and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JULY 2026

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