

No. 25-7348

IN THE SUPREME COURT OF THE UNITED STATES

JAQWON DAVONTE LUPE, AKA JAQWON LUPE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH 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. 13-16) that he should be permitted to appeal his conviction notwithstanding a provision in his plea agreement waiving that right, subject to certain exceptions not applicable here, see Plea Agreement ¶ 6, on the theory that enforcement of the appeal waiver would amount to a “miscarriage of justice” because petitioner asserts that he is actually innocent of the offense to which he pleaded guilty. Pet. 13 (citation omitted). This Court granted a writ of certiorari in Hunter v. United States, No. 24-1063 (argued 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

JUNE 2026

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