No. 26-5456

IN THE SUPREME COURT OF THE UNITED STATES

JOHN MERCED LOZANO, 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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Petitioner contends (Pet. 24-27) that the court of appeals incorrectly relied on commentary to Sentencing Guidelines § 4A1.2 in determining that a prior marijuana conviction, which formed a necessary part of the basis for his career-offender sentencing enhancement, was not an "expunged" conviction under Sentencing Guidelines § 4A1.2(j). See Pet. App. 1a-2a, 9a-11a; see also Sentencing Guidelines § 4A1.2, comment. (nn.6, 10). This Court has granted a writ of certiorari in Beaird v. United States, No. 25-5343 (argued Oct. 13, 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 may 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

NOVEMBER 2026

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