



**U.S. Department of Justice**

Office of the Solicitor General

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Washington, D.C. 20530

February 19, 2008

Honorable William K. Suter  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Curtis A. Beasley v. United States of America, S. Ct. No. 07-548

Dear Mr. Suter:

In the reply brief in the above-captioned case, petitioner contends (Br. 7-10) that the government erred in asserting that petitioner's sentence was based on the Career Offender Guideline, U.S.S.G. § 4B1.1, and not on a recidivist enhancement under 21 U.S.C. 841(b)(1)(B) and 851. See Br. in Opp. 7, 19. Upon further review, the government agrees in part. Petitioner *was* sentenced within the unenhanced statutory maximum for his offense, *id.* at 7-8, and he was subject to the Career Offender Guideline even absent a timely Section 851 information, *id.* at 8. The presentence report determined that his sentencing range was 360 months to life, *id.* at 4, and petitioner did not object to that determination. In the absence of a timely information under Section 851, however, petitioner's correct guidelines range would have been 262-327 months of imprisonment, see Pet. App. 4a, and the sentence he received was 408 months of imprisonment. The government accordingly withdraws reliance on the contention that petitioner's sentence was based on the Career Offender Guideline irrespective of whether a timely information under Section 851 was filed. The government continues to oppose certiorari based on the other contentions in its brief.

I would appreciate your circulating copies of this letter to the Court.

Sincerely,

Paul D. Clement  
Solicitor General

cc: See Attached Service List