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FOR ARGUMENT

U.S. Department of Justice
Office of the Solicitor General

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

Washington, D.C. 20530

November 9, 2012

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

Kim Millbrook v. United States,
S. Ct. No. 11-10362

Dear Mr. Suter:

The Court granted certiorari in this case on September 25, 2012, limited to the following question as formulated by the Court: "Whether 28 U.S.C. 1346(b) and 2680(h) waive the sovereign immunity of the United States for the intentional torts of prison guards when they are acting within the scope of their employment but are not exercising authority to 'execute searches, to seize evidence, or to make arrests for violations of Federal law.'"

The United States submits this letter to inform the Court that, with respect to this question, the Solicitor General has determined that the United States will not defend the judgment of the court of appeals. The United States accordingly will file a brief supporting reversal within the time allotted for petitioner to file his brief on the merits. The Court therefore may wish to invite an amicus curiae to file a brief to defend the judgment of the court of appeals.

Sincerely,

Donald B. Verrilli, Jr.
Solicitor General

cc: See Attached Service List