

IN THE SUPREME COURT OF THE UNITED STATES

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DANA E. TUOMI, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES

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No. 15-5756

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Petitioner contends (Pet. 6-7) that the residual clause in the career-offender provision of the Sentencing Guidelines, Guidelines § 4B1.2, is unconstitutionally vague. In Johnson v. United States, 135 S. Ct. 2551 (2015), this Court held that the analogous residual clause in the Armed Career Criminal Act of 1984 (ACCA), 18 U.S.C. 924(e)(2)(B)(ii), is void for vagueness, and, therefore, imposing an increased sentence under the residual clause “violates the Constitution’s guarantee of due process.” Id. at 2563. Accordingly, the appropriate disposition is to grant

certiorari, vacate the judgment of the court of appeals, and remand the case for further consideration in light of Johnson.\*

DONALD B. VERRILLI, JR.  
Solicitor General  
Counsel of Record

SEPTEMBER 2015

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\* The government waives any further response until so ordered by the Court.