

No. 07-472

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**In the Supreme Court of the United States**

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EVGUENI POJILENKO, 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 THIRD CIRCUIT*

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**MEMORANDUM FOR THE UNITED STATES**

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PAUL D. CLEMENT  
*Solicitor General  
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**OPINIONS BELOW**

Petitioner contends that the standards applied by the court of appeals in reviewing his above-Guidelines sentence for unreasonableness are inconsistent with *United States v. Booker*, 543 U.S. 220 (2005). On June 11, 2007, this Court granted certiorari in *Gall v. United States*, No. 06-7949, to address the standards to be applied in reviewing a sentence outside the Guidelines for unreasonableness under *Booker*. Accordingly, the petition for a writ of certiorari should be held pending the Court's resolution of *Gall*, and then disposed of as appropriate in light of the decision in that case.\*

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\* The government waives any further response to the petition unless this Court requests otherwise.

Respectfully Submitted.

PAUL D. CLEMENT  
*Solicitor General*

OCTOBER 2007