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May 7, 2025  
**VIA ECF**

Clerk, U.S. Court of Appeals  
2100 U.S. Courthouse  
Philadelphia, PA 19106

Re: United States v. Cammarata, appellant  
Dkt. No. 23-2110

Notice of Supplemental Authority Under Fed.R.App.P. 28(j)

To the Clerk:

On March 25, 2025, appellant Joseph Cammarata filed a petition for rehearing in the above-captioned case, focused on the question of party presentation as applied to a sentencing issue. The panel (Smith, J., with Restrepo & McKee, JJ.) called for a response, which was filed on April 21. Appellant tendered a reply (with a motion for leave to file) on April 24. The petition remains pending as of this date. On April 28, 2025, a panel of this Court filed a precedential decision in *United States v. Payo*, — F.4th —, 2025 WL 1215486 (per Ambro, J., with McKee & Hardiman, JJ.). *Payo* addresses a similar point and supports appellant’s position on rehearing.

*Payo* holds that the district court erred at sentencing when it found the defendant-appellant to be a “career offender” under the U.S. Sentencing Guidelines based on a prior “crime of violence” in reliance on a legal argument that the government had not made, and on a factual theory that the government forfeited. Like Mr. Cammarata in his rehearing petition (Pet. 4–6), the *Payo* Court relied on the “party presentation” principle, as articulated by the Supreme Court in *United States v. Greenlaw*, 554 U.S. 237 (2008). See *Payo*, WL \*4 (also citing *United States v. Dowdell*, 70 F.4th 34, 140 (3d Cir. 2023)). The *Payo* opinion emphasizes as well (like Mr. Cammarata in his petition, at 2) this Court’s precedent enforcing the doctrine of forfeiture of arguments against the government in sentencing appeals. *Payo*, \*4. Finally, *Payo* (WL \*10) further supports Mr. Cammarata’s argument that the government will not likely be allowed to change its position on remand by withdrawing its forfeiture of the issue. Pet.Rep., at 4 (citing *United States v. Dickler*, 64 F.3d 818, 832 (3d Cir. 1995), and progeny).

I certify that this letter contains 294 words, which does not exceed the allowable 350 words under Fed.R.App.P. 28(j). I respectfully request that it be transmitted promptly to the Panel and then to the full Court when and if the rehearing petition is distributed for *en banc* consideration.

Respectfully,

*s/Peter Goldberger*

PETER GOLDBERGER

Attorney for Appellant Cammarata

cc via ECF: all counsel