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January 13, 2011

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

RE: Billy Joe Reynolds v. United States  
Supreme Court No. 10-6549

Dear Mr. Suter:

This letter is to respond to the letter of the Solicitor General dated January 12, 2011 regarding the above case scheduled for conference January 14, 2011. I would appreciate your circulating this letter to Members of the Court.

The Ninth Circuit's recent decision in United States v. Valverde, \_\_\_ F.3d \_\_\_, 2010 WL 5263142 \*6 (Dec. 27, 2010) supports Mr. Reynolds' argument that the Attorney General did not have good cause to waive the notice and comment requirements of the Administrative Procedures Act when issuing the interim rule. As a result, SORNA did not apply to him. This result is consistent with the 6th Circuit's ruling in United States v. Utesch, 596 F.3d 302, 309-310 (6th Cir. 2010) citing United States v. Cain, 583 F.3d 408, 421-423 (6th Cir. 2009).

Further, the Ninth Circuit's decision in Valverde has deepened the circuit split on the issue of the validity of SORNA with respect to pre-SORNA sex offenders and warrants review by this Court.

Sincerely,

Candace Cain  
Assistant Federal Public Defender

cc: Neal Kumar Katyal  
Acting Solicitor General