

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 06–7949

BRIAN MICHAEL GALL, PETITIONER *v.*
UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

[December 10, 2007]

JUSTICE THOMAS, dissenting.

Consistent with my dissenting opinion in *Kimbrough v. United States, post*, p. ____, I would affirm the judgment of the Court of Appeals because the District Court committed statutory error when it departed below the applicable Guidelines range.