

NO. 20-5673

IN THE  
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Supreme Court, U.S.  
FILED

AUG 21 2020

OFFICE OF THE CLERK

IN Re: Ricardo Watkins PETITIONER

vs.

United States of America RESPONDENT(S)

ON PETITION FOR A WRIT OF PROHIBITION PURSUANT ALL  
WRIT ACT 28 U.S.C. 1651(a) DIRECTED TO THE ASSOCIATE  
JUSTICE WITH SUPERVISORY CONTROL OVER THE EIGHTH CIRCUIT  
UNDER SUPREME COURT RULE 22-1.

U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITIONER FOR WRIT OF PROHIBITION

Ricardo Watkins FED. REG #17709-424

FEDERAL CORRECTIONAL INSTITUTION LA TUNA

P.O. BOX 3000,  
ANTHONY, NM/TX 88021

20-1964

**CONSTITUTIONAL QUESTION**

WHETHER RICARDO WATKINS SHOULD BE RESEASED TO HOME CONFINEMENT  
UNDER THE CARES ACT OF MARCH 2020, BECAUSE OF HIS UNDERLYING,  
DEBILITATING MEDICAL CONDITIONS AND THE FAILURE OF FCI, LUNA'S  
MANAGEMENT TO TAKE BASIC HYGIENE STEPS, AND CONDUCT COVID-19  
TESTS TO PROTECT BOTH STAFF AND INMATES?

**LIST OF PARTIES**

[ ] All parties appear in the caption of the case on the cover page.

[ ] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

IN RE: RICARDO WATKINS -PETITIONER

vs.

UNITED STATES OF AMERICA -RESPONDENT(S)

ON PETITION FOR A WRIT OF PROHIBITION TO

U.S. COURT OF APPEALS FOR THE EIGHT CIRCUIT

PETITION FOR WRIT OF PROHIBITION

RICARDO WATKINS

F.C.I. LA TUNA

P.O. BOX 3000

ANTHONY, NM/TX 88021

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF PROHIBITION

Petitioner respectfully prays that a writ of prohibition issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported;  
[X] is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at N/A; or,  
[ ] has been designated for publication but is not yet reported;  
[ ] is unpublished.

[ ] For cases from state courts: N/A

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported;  
[ ] is unpublished.

The opinion of the N/A court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported;  
[ ] is unpublished.

## JURISDICTION

### For cases from **federal** courts:

The date on which the United States Court of Appeals decided my case was July 06, 2020.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:

N/A, and a copy of the order denying rehearing appears at Appendix       .

An extension of time to file the petition for a writ of certiorari was granted to and including       ,

(date) on N/A (date) in Application No.

A

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

### For cases from **state** courts:

The date on which the highest state court decided my case was N/A.

A copy of that decision appears at Appendix       .

A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix       .

An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

## STATEMENT OF JURISDICTION

The Supreme court of the United States has original jurisdiction over three categories of case. first, the Supreme Court can exercise original jurisdiction over "actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls or foreign states are parties." See, e.g. *Maryland v. Louisiana*, 451 U.S. 725,737 (1981).

Second, the Supreme court also possesses original jurisdiction for "(all) controversies between the United States and a state," 28 U.S.C. Section 1251(b) (2).

Finally, Section 1251 provides for original jurisdiction in the Supreme court, "for (all) actions or proceedings by a state against the citizens of another state or against aliens." See, *Oregon v. Mitchess*, 400 U.S. 112(1970), *United States v. Louisiana*, 339 U.S. 699 (1950), *United States v. California*, 332 U.S. 19 (1947).

The statutes defining the Supreme Court's jurisdiction between "appeal" and "certiorari" as vehicles for appellate review of the decision of state and lower federal courts. Where the statutes provides for "appeal" to the Supreme court, the Court is obligated to take and decide the case when appellate review is requested. Where the statute provides for review by "writ of prohibition," the court has completer case if there are four votes to grant prohibition. Effective September 25, 1988, the distinction between appeal and prohibition as a vehicle for review was virtually entirely eliminated. Now almost all cases come to the Supreme Court by writ of prohibition. Pub.L.N. 100-352, 102 Stat. 662 (1988).

### WRIT OF PROHIBITION PURSUANT TO 28 U.S.C.. ACTION 1651 IN AID OF THE SUPREME COURT'S JURISDICTION.

- (a) The Supreme Court and all courts established by Act of Congress, may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.
- (b) An alternative writ or law may be issued by a justice or judge of a court which has jurisdiction.

Utilizing Rule 22-1 of the Supreme Court Rules, a justice (Associate Justice of the Eight Circuit to whom an application to a Writ of prohibition is submitted may refer to the Court for determination.

CONSTITUTIONAL AND STATUTORY PROVISIONS  
LAW RELATED TO STRUCTURAL ERROR

In conducting harmless error analysis of constitutional violations in habeas cases, the Supreme Court repeatedly has reaffirmed that "(s)ome constitutional violations...by their very nature cast so much doubt on the fairness of the trial process that, as a matter of law, they can never be considered harmless. *Satterwhite v. Texas*, 486 U.S. 249,256 (1988); accord *Neder v. United States*, 527 U.S. 1,7(1999) ("(W)e have recognized a limited class of fundamental constitutional errors that 'defy analysis by "harmless error" standards'...Errors of this type are so intrinsically harmful as to require automatic reversal (i.e.,'affect substantial rights') without regard to their on the outcome.").

*Sullivan v. Louisiana*, 508 U.S. 275,279(1993) ("Although most constitutional errors have been held to harmless-error analysis, some will always invalidate the conviction."(citations omitted)); *id* at 283 (Rehnquist, C.J.,concurring); *United States v. Olano*, 507 U.S. 725,735 (1993); *Rose v. Clark*, 478 U.S. 570,577-78 (1986) ("some constitutional errors require reversal without regard to the evidence in the particular case...(because they) render a trial fundamentally unfair"); *Vasquez v. Hillery*, 474 U.S. 254, 283-264(1986); *Chapman v. California*, 386 U.S. 18,23(1967) ("there are some constitutional rights so basic to a fair trial that their infraction can never be treated as harmless error").

## LAW RELATED TO STRUCTURAL ERROR FOR JUDICIAL BIAS

Included in the definition of structural errors, is the right to an impartial judge, i.e. the right to a judge who follows the constitution and Supreme Court precedent ad upholds the oath of office. See, e.g. *Neder v. United States*, *supra*., 527 U.S. at 8 ("biased trial judge" is "structural error" and thus is subject to automatic reversal"); *Edwards v. Balisok*, 520 U.S. 461, 469 (1997); *Sullivan v. Louisiana*, 508 U.S. at 279; *Rose v. Clark*, 478 U.S. 570, 577-78 (1986); *Tunney v. Ohio*, 273 U.S. 510, 523 (1927).

#### STATEMENT OF CASE

According to Government accounts memorialized in the court records, from at least 1996 through the fall of 1999, Watkins regularly purchased crack cocaine from several different people in Illinois and arranged for it to be transported to and sold in Cedar Rapids, Iowa. Watkins purchased distributing quantities of crack cocaine at intervals varying from twice month to twice a week, depending upon demand. During this time, Watkins used more than ten different people to help him cut, package, transport and sell the sell the drugs. Christopher Winters testified that he sold crack cocaine to Watkins several times in 1996 and regularly between the fall of 1997 and the fall of 1999. He testified that he sold between 2.25 and 4.5 ounces of crack cocaine and one sold him 9 ounces of crack cocaine.

Alvis Davis testified that from the fall of 1997 into 1998 and again in 1999, he and Watkins bought crack cocaine in Chicago and transported it to Cedar Rapids, where he would provide the crack cocaine to others for sale on their (486 F.3d 463) behalf. Davis testified that during the time period Watkins would travel to Chicago usually twice each week to buy 4.5 ounces of crack cocaine or each trip. Willie Herron, Dewayne Shears and Jessica Martkey all testified that they have transported crack cocaine from Chicago to Cedar Rapids for Watkins and Davis.

In March 1998, a confidential informant working with the police in the Cedar Rapids area purchased a "rock" directly from Watkins and Davis for \$100.. ("the controlled purchase"). In August 1998, fearing that he was under investigation, Watkins executed a proffer agreement with the United States Attorney's office for the Northern District of Illinois. ("the 1998 proffer agreement"). Watkins did not have legal counsel at the time. The agreement the government to use Watkins' proffer statement against him if he "should subsequently testify contrary to the substance of the proffer, otherwise a position at sentencing or a position inconsistent with the proffer. Pursuant with the proffer, Watkins provided incriminating information about his crack cocaine distribution in Cedar Rapids.

An Iowa federal grand jury indicted Watkins in October 1999, on the instant charges, and he was arrested in March 2005 in Illinois. The district court appointee counsel to represent Watkins. In 2005, Watkins entered into a proffer agreement with the United States Attorney's office for the Northern District of Iowa through his attorney. ("the 2005 proffer agreement"), under the terms of which he again providing incriminating information regarding his distribution of crack cocaine in Cedar Rapids. Watkins's counsel believed that the 2005 proffer agreement could not be used to impeach Watkins, if he were to testify. However, the agreement actually provided that the information received during the proffer could be used, "to impeach your client's credibility, and to focus on rebuttable, claims against your clients to develop leads from information provided, and for all others non-evidentiary purposes."

REASONS FOR GRANTING

INTRODUCTION

Ricardo Watkins, respectfully seeks leave of this Honorable Court to entertain his application for a Writ of Prohibition which he has applied for under the All Writs Act, 28 U.S.C. 1651(a) which in pertinent part, states that, all courts established by Act of Congress may issue, all writs necessary or appropriate in aid of their respective jurisdictions, and agreeable to the usages and principles of law.

WHY RICARDO WATKINS IS FILING THIS WRIT IN AID OF THIS HONORABLE COURT'S APPELLATE JURISDICTION ?

As here, the traditional use of the Writ in aid of appellate jurisdiction both at common law and in the federal courts, has been to confine the court against which the Writ of Prohibition is sought, to a lawful exercise of its prescribed jurisdiction. "Roche v. Evaporated Assn, 319 U.S. 21,26 87 L.Ed 1185, 63 S.Ct. 938 (1943).

One of the primary reasons, Ricardo Watkins is seeking a "drastic and extraordinary remedy reserved for really extraordinary cases is the fact that the lower courts (District Court and the Court of Appeals for the Eight Circuit) were unwilling to play by the rules, with respect to the clear and unexpurgated provisions of the CARES Act of March 2020, and the subsequent April Memo issued to the Director of the B.O.P., increasing the use of Home Confinement at institutions...affected by Covid-19. (April 3,2020, available at <http://www.justice.gov/file/1266661/> download.

What makes this case particularly bad for the administration of justice in the Eight Circuit is the fact that, the Eight Circuit appears to be in complicity with the District Circuit. Stripped of its legal niceties, this case constitutes an "...imprimatur to a miscarriage of justice."

RICARDO WATKINS CONTENDS THAT THE ALLEGATIONS HE MAKES CONSTITUTE EXCEPTIONAL CIRCUMSTANCES.

Although the courts have not "confined themselves to an arbitrary and technical

(III) experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

2. Foreseeability of Extraordinary and Compelling reasons. For purposes of this public policy statement, an extraordinary and compelling reason need not have been unforeseen at the time of sentencing in order to warrant a reduction in the term of imprisonment. Therefore, the fact that an extraordinary and compelling reason reasonably could have been known or anticipated by the sentencing court does not preclude consideration for a reduction under the policy statement.

3. Rehabilitation of the defendant. Pursuant to 28 U.S.C. Section 994(t) rehabilitation of the defendant is not, by itself, an extraordinary and compelling reason for purposes of this policy statement.

#### **BACKGROUND**

The Commission is required by 28 U.S.C. Section 994(a)(2) to develop general policy statements regarding application of the guidelines or other aspects of sentencing that in the view of the commission would further the purposes of sentencing (18 U.S.C Section 3553(a)(2)(2), including among other things, the appropriate use of the sentence modification provisions set forth in 18 U.S.C. Section 3582(C). In doing so, the Commission is authorized by 28 U.S.C. Section 994(t) to "subscribe what should be considered extraordinary and compelling .. reasons for sentence reduction, including the criteria to be applied and a list of specific examples".

#### **REASONS FOR GRANTING RICARDO WATKINS RELIEF ON 18 U.S.C. 3582(c)(1)(A) IN ADDITION TO A PREVIOUSLY FILED BUT UNDECIDED SECTION 404 BEFORE HIS SENTENCING COURT.**

Ricardo Watkins, based on the information posited in this request for compassionate release, allied with credible published reports, moves this Honorable court to, on an emergency basis to give his case the dire attention it needs. The impetus of this requested release is premised in the present national

definition of jurisdiction." *Will v. United States*. 389 U.S. 90, 95, 19 L.Ed.2d 305, 88 S.Ct. 269. Ricardo Watkins further avers that, as the Writ is one of the most potent weapons in the judicial arsenal, i.e. at 107, 19 L.Ed.2d 305, 88 S.Ct., 269, his case satisfies the three conditions that must be satisfied before it may issue, *Kerr v. United States* Dis. Court for Northern District of Calif., 426 U.S. 394, 403, 48 L.Ed.2d 725, 96 S.Ct. 2119 (1975).

Ricardo Watkins has no other means to attain the relief he seeks. *ibid* - a condition designed to ensure that the writ will not be used as a substitute for the regular appeal process. *Fahey*, *supra*, 260, 91 L.Ed. 2041, 67 S.Ct. 1558.

Second, he must satisfy "the burden of showing that his right to issuance of the writ is "clear and indisputable." "*Kerr*, *supra* at 403, 48 L.Ed.2d 725, 96 S.Ct. 2119 (quoting *Bankers Life and Casualty Co*, *supra*, at 384, 98 L.Ed. 1206, 74 S.Ct. 145)."

Third, even if the first two prerequisites have been met, the issuing source, in the exercise of its discretion must be satisfied that the merit is appropriate under the circumstances. *Kerr*, *supra* at 403, 48 L.Ed.2d 725, 96 S.Ct. 2119 (citing *Schagfrenhauf v. Holder*, 379 U.S. 104, 112 n8, 13 L.Ed. 2d 152, 85 S.Ct. 234 (1964)).

These hurdles, however demanding are not insuperable, the Supreme Court has issued the writ to restrain a lower court when its actions would threaten the separation of powers by "embarrassing the executive arm of the government." *Ex Parte Peru*, 318 U.S. 578, 588, 87 L.Ed. 1014, 63 S.Ct. 793 (1943) or result in the intrusion by the federal judiciary on a delicate area of federal, state relations," *Will*, *supra*, art. 95, 10 L.Ed. 2d 305, 88 S.Ct. 269 (citing *Maryland v. Soper* (No.1) 270 U.S. 9, 70 L.Ed. 449, 46 S.Ct. 185 (1926)).

Included in the definition of structural error is the right to an impartial judge who follows the constitution and Supreme Court precedents and upholds the oath of office. See, *Neder v. United States*, *supra*, 527 U.S. at 8. Biased judge is "structural error that is subject to automatic reversal) *Edward Balisok; Sullivan v. Louisiana*, 508 U.S. at 279; *Rose v. Clark*, 478 U.S. 508 U.S. at 279; *Rose v. Clark*, 478 U.S. 507, 577-78(1986); *Tunney v. Ohio*, 273 U.S. 510, 523 (1927).

Thus, based on Ricardo Watkin's argument in this application for a writ of prohibition, his entitlement to the writ is clear and indisputable.

Additionally, the Supreme court has issued the writ to restrain a lower court to, as here, when its actions would threaten the separation of powers by "embarrassing the executive arm of the government." *Ex. Parte Peru*, 318 U.S. 578, 588, 87 L.Ed 1014, 63 S.Ct 793 (1943), or result in the "intrusion by the federal judiciary on a delicate area of federal-state relations." *Will*, *supra*, at 95, 19 L.Ed.2d 305, 88 S.Ct. 269 (citing *Maryland v. Soper* (No.1), 270 U.S. 9, 70 L.Ed 449. 46 S.Ct. 185 (1926).

#### **DISCUSSION AND LEGAL ANALYSIS**

Ricardo Watkins respectfully moves this Honorable Court to entertain this petition filed under the CARES ACT, pursuant to a reduction of sentence (RIS) through the instrumentality of Section 3582(c)(1)(A). This request was initiated based on the "other reasons" criteria of United States Sentencing Guidelines, Section 1B1.13 comment (n.1)(D), the policy statement for compassionate release, which permits a reduction when "there exists in a defendant's case an extraordinary and compelling reason other than or in combination with "the remainder of the Guidelines definition. See U.S.S.G. Section 1B1.13, n.1(D).

Until recently, only the BOP could move to reduce a term of imprisonment for extraordinary and compelling reasons. Then in late 2018, the First Step Act amended 18 U.S.C. Section 3582(c)(1)(A) to permit a defendant to file such a motion, 18 U.S.C. Section 3582(c)(1)(A) (as amended).

#### **EXTRAORDINARY AND COMPELLING CIRCUMSTANCES**

As an initial matter, Ricardo Watkins contends, at FCI, La Tuna where he is currently incarcerated, he has a well documented case chronic respiratory issues such as asthma, bronchitis, and high blood pressure. He also has a medical history that proves that his diagnosed conditions can be classified as a debilitated medical condition, which are among the ailments designated by the CDC (Center for Disease Control) that makes a similarly situated individual, like him, susceptible and vulnerable to COVID-19, because it compromises his immune system and often leads to death.

Ricardo Watkins also avers, extraordinary and compelling reasons could also include situations where a defendant like Ricardo Watkins, is suffering from a medical or physical condition "that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility, and from which he or she is not expected to recover." Id. Ricardo Watkins contends that the state of his medical health, presents a particularly "extraordinary and compelling circumstance" so as to qualify him for the requested RIS motion.

His deteriorating health, coupled with the Bureau of Prisons' inability to provide proper and adequate medical care to him, further exacerbates the extraordinary and compelling reason, to warrant compassionate release to Home Confinement. In fact, he further contends that this state of affairs rises to the level of constituting a potential 8th Amendment Right against Cruel and Unusual Punishment. See *Herrere v. Collins*, 506 U.S. 390,432 n.2 (1993).

On Tuesday, July 29,2020, five inmates had to be quarantined at FCI, La Tuna, because they tested positive for Coronavirus. Ricardo Watkins believes because, there has not been no previous testing of either the inmates or staff, there is no telling how many more would be positive for the test. The five inmates developed very severe debilitating symptoms, hence the discovery they had contracted the virus.

Anecdotally, because of the urgency of this life threatening condition, Ricardo Watkins is seeking Covid-19 protection by releasing him to Home Confinement. At the time of writing the State of Texas, along with Florida, Arizona and California are witnessing an unprecedented surge in the number of Covid-19 cases and deaths.

**STATEMENT OF ADJUDICATIVE FACTS PURSUANT TO RULE 201 FEDERAL RULES OF EVIDENCE WITH RESPECT TO 18 U.S.C. SECTION 3582(c)(1)(A).**

Pursuant to the amendments made to the Second chance Act by the First Step Act of 2018, a defendant like Ricardo Watkins can pursue a motion to modify a sentence for "extraordinary and compelling reasons...as here, "after the lapse

of 30 days from the receipt of such a request to modify a sentence by the Warden of his facility. See EXHIBIT 1: "18 U.S.C. Section 3582(c)(1)(A), Also, See Mohrbacher v. Ponce, No. Cv 18-00513-DMG, 2019 WL 161727 (C.D. Cal Jan.10, 2019) (discussing modifications made to Section 3582(c)(1)(A) by the First Step Act); United States v. Curry, No. Cr 6:06 - 082-DCR, 2019 WL 508067 (E.D. Ky. Feb. 8, 2019) (discussing same), and "if petitioner---seeking to file his own motion for compassionate release, such a motion must be filed in the sentencing court. "Brown v. Underwood, No. 3:19-Cv-1706-B-Bn, 2019 WL 5580106, at \*2 (N.D. Tex. Aug 22, 2019) report and recommendation adopted. No. 3:19-Cv-1706-B, 2019 WL 5579198 (N.D. Tex. Oct. 28, 2019).

Until recently, only the Director of the B.O.P. could file an 18 U.S.C. Section 3582(c)(1)(A) motion to a court to reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. Section 3553(a), to the extent that they are applicable, the court determines that -

The defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. Section 3142(g); and  
The reduction is consistent with the policy statement.

#### Commentary

##### Application Notes:

1. Extraordinary and Compelling Reasons, provided the defendant meets the requirements of subdivision;
2. Extraordinary and Compelling reasons exist under any of the circumstances set forth below;
  - (A) Medical condition of the defendant in custody:
    - (i) The defendant is suffering from a terminal disease (i.e., a serious and advanced illness with an end of life trajectory). A specific prognosis of life expectancy (i.e. a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.
    - (ii) The defendant is in custody.
  - (I) suffering from a serious physical or medical condition.
  - (II) suffering from a serious functional or cognitive impairment, or

emergency posed by the coronoravirus pandemic, coupled with Ricardo Watkins' medical situation which is well documented in his institutional records.

Based on widespread published reports, of which he craves this Honorable Court to take judicial notice, older and ever younger people with underlying health conditions are susceptible to falling severely ill from the novel coronavirus. See, e.g. <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>) "Older people and people of any age who have serious underlying medical conditions maybe at higher risk for more serious complications from COVID-19"), Dati Blocker, "Older Adults advised to 'stay home as much as possible' during coronavirus outbreak," UC Health Today (March 10, 2020) found at <https://uchealth.org/today/older-adults-cornavirus-can-be-more-serious/> (citing Dr. Anthony Fauci, infectious disease expert as stating, "If you are an elderly person or young person with an underlying condition, if you get infected, the risk of getting into trouble is considerable").

In a recent editorial in the Washington Post, one author of whom is a professor of medicine and epidemiology at Brown University, recounted that in China, the COVID-19 spread, rapidly in Chinese correctional facilities remain densely populated and poorly designed to prevent the inevitable rapid and widespread dissemination of this virus. "Josiah Rich, Scott Allen, and Marvis Mimoh, "We must release prisoners to lessen the spread of coronavirus." The Washington Post March 17, 2020

Separate from the issue of life and death expressed in this case, Ricardo Watkins submits that a reduction to time served is warranted based on a motion

he filed to the District Court, in which he invokes the fact that Section 404 grants the district court discretion to reduce sentences imposed under the excessively-harsh penalty structure that Congress has shown. In *Pepper v. United States*, 131 S.Ct. 1229, 1241 (2011), the Supreme Court emphasized the important nature of post-sentence rehabilitation. *Id.*

In addition, evidence of post sentencing rehabilitation maybe highly relevant to several of the (18 U.S.C.) Section 3553(a) factors that Congress has expressly instructed district courts to consider at sentencing. For example, evidence of post sentencing rehabilitation may be plainly be relevant to 'the history and characteristics of the defendant.' Section 3553(a)(1). Such evidence may also be pertinent to 'the need for the sentence imposed' to serve the general purposes of the sentencing set forth in Section 3553(a)(2) ---in particular, 'protect the public from further crimes of the defendant,' and provide the defendant with needed educational or vocational training...or other correctional treatment in the most effective manner,' Sub-section 3535(a)(2)(B)-(D); see *McManus*, 496 F.3d at 853 (Mellow, J., concurring) ("In assessing...deterrence, protection of the public and rehabilitation, 18 U.S.C. Section 3553(a)(2)(B)(C) & (D), there would seem to be no better evidence than a defendant's post incarceration conduct."). Post sentencing rehabilitation may also critically inform a sentencing judge's overarching duty under Section 3553(a) to 'impose a sentence sufficient, but not greater than necessary 'to comply with the sentencing purposes set forth in Section 3553(a)(2).

*Pepper*, 131 S.Ct. at 1242. Since Ricardo Watkins's sentencing, he has aptly participated in various educational and vocational programs to obtain skills to prepare for his release date. See EXHIBIT 2 - Sample copies of Certificates of programs he has participated and completed while in B.O.P..

CONCLUSION

WHEREFORE, Petitioner Ricardo Watkins moves this Honorable court to grant this writ of Prohibition.

Date: August 21, 2020

Respectfully Submitted

  
Ricardo Watkins