ORIGINAL

No. 21-5743

IN THE UNITED STATES SUPREME COURT OF THE UNITED STATES

RAFAEL FERNANDEZ GARCIA,

Petitioner

vs

UNITED STATES OF AMERICA,

Respondent

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

PETITION FOR CERTIORARI

Rafael Fernandez Garcia
Register Number 91169-004
FCI Coleman Medium
P.O. Box 1032
Coleman, Florida 33521

Pro se Petitioner

RELATED CASE

UNITED STATES OF AMERICA v. THOMAS BRYANT, Jr.,
996 F.3d 1243 (11th Cir. 2021)

Petition For Certiorari Filed: 20-1732

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QUESTIONS PRESENTED FOR REVIEW

1. Is it appropriate for a court to apply old policy statements, specifically reserved for agencies to follow, to new statutory constructions that eliminate agency primacy?

2. Is the decision reached in United States v. Bryant, 996 F.3d 1243 (11th Cir. 2021) accurately decided, where, if allowed to stand, it would be the outlier of the majority of circuits?

LIST OF PARTIES IN COURT BELOW

The caption set out above contains the names of all the parties.

CORPORATE DISCLOSURE STATEMENT

This case does not involve any corporations

CITATIONS OF OPINIONS AND ORDERS IN CASE

The original conviction of Petitioner in the United States District Court for the Southern District of Florida was not reported, but is set forth in the Appendix. See Appx at 1 Page 2.

The original conviction of Petitioner was appealed to the United States Court of Appeals for the Eleventh Circuit, which was affirmed in all respects on October 27, 2011, and is reported at United States v. Garcia, 445 Fed. Appx. 281 (11th Cir. 2011). A Petition for Certiorari was not filed. See id.

The decision of the United States District Court for the Southern District of Florida on Petitioner's Section 2255 motion occurred July 23, 2012. On February 5, 2013 the Eleventh Circuit denied Petitioner a Certificate of Appealability, and on September 26, 2014, the Eleventh Circuit affirmed the denial of a second Section 2255 filed. Garcia v. United States, 2014 WL 4783717 (11th Cir. 2014). See Appx at 1 Page 1.

JURISDICTIONAL STATEMENT

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on July 19, 2021. Rehearing was not sought. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

1. The Fifth Amendment, United States Constitution, provides:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

2. The Statute under which Petitioner sought post conviction relief was 18 U.S.C. § 3582(c)(1)(A)(i), which provides:

> (c) The court may not modify a term of imprisonment once it has been imposed except that, (1) in any case, (A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in Section 3553(a) to the extent that they are applicable, if it finds that, (i) extraordinary and compelling reasons warrant such a reduction.

STATEMENT OF THE CASE

I. COURSE OF PROCEEDINGS IN THE SECTION 3582(c)(1)(A)(i) CASE NOW BEFORE THIS COURT

The facts necessary to place in their setting the questions now raised can be briefly stated as follows:

On July 6, 2020, Petitioner filed a pro se Motion For Reduction of Sentence in the United States District Court for the Southern District of Florida, pursuant to 18 U.S.C. § 3582. See Appx at 4.

On July 15, 2020, the district court denied the above motion for a lack of jurisdiction after considering "18 U.S.C. § 3553(a) and the applicable Sentencing Guidelines Policy Statements." See Appx at 2.

On July 30, 2020, a timely Notice of Appeal was docketed and Petitioner took his cause to the Eleventh Circuit Court of Appeals. See Appx at

On July 19, 2021, the Eleventh Circuit Court of Appeals affirmed the district court's denial of Petitioner's request for Compassionate Release/Sentence Reduction. See Appx at 3.

In light of the above, the Petition For Certiorari below is necessary.

II. RELEVANT FACTS CONCERNING THE UNDERLYING CONVICTION FOR HOBBS ACT ROBBERY AND CONSPIRACY WITH INTENT TO DISTRIBUTE 5 KILOGRAMS OR MORE OF COCAINE

The relevant facts are contained in the district court's denial of Petitioner's Motion To Vacate pursuant to 28 U.S.C. § 2255, and those facts are quoted as follows:

On September 10, 2009, Petitioner arrested in the Southern District of Florida based upon a Criminal Complaint following a reverse sting operation.

On September 22, 2009, Petitioner was indicted for Hobbs Act Robbery, Conspiracy to Possess with Intent to Distribute Five Kilograms or More of Cocaine, Attmpted Possession with Intent to Distribute Five Kilograms or More of Cocaine, Conspiracy to Use a Firearm During a Crime of Violence or Drug Trafficking Crime, and Use of a Firearm During the Commission of a Crime of Violence or Drug Trafficking Crime, and Use of a Firearm During the Commission of a Crime of Violence or Drug Trafficking Crime. See Appx at 1.

On October 28, 2009, a continuance was granted to the defense, and trial was reset to January 25, 2010. See id.

On January 5, 2010, a Superceding Indictment was returned. id.

On January 22, 2010, another continuance was granted and trial was reset to February 22, 2010. However, on February 2, 2010, the defense was granted another continuance and trial was

reset to March 1, 2010, and at a February 26, 2010 calendar call, the defense indicated a readiness for trial at which point Petitioner's trial was severed from his brother's case. id.

On March 1, 2010, trial was commenced. id.

On March 12, 2010, Petitioner was convicted on Four of Five Counts, but acquitted of Use of a Firearm During a Crime of Violence or Drug Trafficking Crime. id.

On May 21, 2010, Petitioner was sentenced to 292 months in prison. id.

On October 27, 2011, Petitioner's convictions were affirmed by the Eleventh Circuit Court of Appeals. id.

Petitioner did not Petition For Certiorari.

On April 5, 2012, Petitioner filed a timely Motion To Vacate and Memorandum; the Government responded on April 30, 2012; and Petitioner replied on May 29, 2012, regarding multiple claims challenging the effectiveness of counsel regarding plea offers; a juror challenge; and other issues related to evidence adduced at trial and witness testimony. id.

On July 16, 2012, the district court denied the Motion To Vacate in all respects and dismissed the action. id.

Petitioner has since sought relief pursuant to United States Sentencing Guidelines Amendment 782, but also denied by the district court as recent as March 30, 2018.

III. EXISTENCE OF JURISDICTION BELOW

Petitioner was convicted in the District Court for the Southern District of Florida for four of five counts under 18 U.S.C. § 924(o); 21 U.S.C. §§ 841, 846; and 18 U.S.C. § 1951.

Petitioner has extensive post-conviction filings, but of relevance here, is the fact that the Section 3582(c)(1)(A)(i) motion at question here was appropriately filed in the above court, and duly appealed to the Eleventh Circuit. See Appx at 3 Page 2.

IV. THE COURT OF APPEALS HAS DECIDED A FEDERAL QUESTION IN A WAY THAT CONFLICT'S WITH THE APPLICABLE DECISIONS OF ITS SISTER CIRCUITS

On May 7, 2021, the United States Court of Appeals for the Eleventh Circuit decided United States v. Bryant, 996 F.3d 1243 (11th Cir. 2021), which took a position diametrically opposed to at least seven other courts of appeals that have dealt with the applicability of United States Sentencing Guidelines (U.S.S.G.) Application Note § 1B1.13 to defendant-filed motions seeking sentence reductions under Section 3582(c)(1)(A), after following the statute's exhaustion requirement.[1]

On December 21, 2018, the First Step Act (FSA) was signed into law by President Donald J. Trump. [2]

One of its provisions sought to "Increase[] the Transparency and Use of Compassionate Release", which is the bone of contention here. id.

When reaching the decision of whether to apply § 1B1.13 as an exclusive policy statement when disposing of defendant-filed motions, all of the appeals courts focused on Congress' intent, first; second, the focus turned to the plain text of the statute, which clearly states: "upon motion of the Director of the Bureau

1 Courts to decide U.S.S.G. § 1B1.13 is not applicable to defendant-filed motions: United States v. Brooker, 976 F.3d 228 (2d Cir. 2020); United States v. McCoy, 981 F.3d 271 (4th Cir. 2020); United States v. Shkambi, No. 20-40543 (5th Cir. April 7, 2021); United States v. Jones, 980 F.3d 1098 (6th Cir. 2020); United States v. Gunn, 980 F.3d 1178 (7th Cir. 2020); United States v. Aruda, No. 20-10245 (9th Cir. April 8, 2021); United States v. Maumau, No. 20-4056 (10th Cir. April 1, 2021).

2 Pub. L. No. 115-391, § 603(b), 132 Stat. 5194, 5239 (2018).

of Prisons," OR "upon motion of the defendant after..." 18 18 U.S.C. § 3582(c)(1)(A)(emphasis added)(quotations omitted).

When a defendant initiates the process for himself, it begins at the institutional level where he files an Inmate Request To Staff pursuant to BOP Program Statement 5050.50, which codifies Section 3582 and 4205(g). See Appx at 4 Page 8 of 23.

The form provided by BOP officials in many ways tracks the structure of Application Note § 1B1.13, where four reasons labeled (A)-(D) identify justifiable reasons for a grant of compassionate release bytthe BOP, but the "Catchall" provision of 1(D), or "Other-Extraordinary and Compelling Circumstance" do not take into account what a defendant may submit as his own reasons justifying relief outside of what the agency may itself point to as its own "line in the sand", which also happens to be the same as before when the grant of compassionate release initiated by the BOP came at a whopping rate of 0.01% annually throughout the 1990's.[3]

The Eleventh Circuit's position in Bryant is that "Because we can apply both the amended Section 3582(c)(1)(A) and Application Note 1(D), we must apply both." id.

However, the Petitioner here will posit, just because you can do something, it does not suddenly become right in the absence of explicit license.

In reaching its decision to affirm, the court below decided

3 See Shon Hopwood, Second Looks & Second Chances, 41 Cardozo L. Rev. 83, 105-06 (2019); William W. Berry III, Extraordinary and Compelling: Re-Examination of the Justifications for Compassionate Release, 68 MD. L. Rev. 850, 868 (2009).

that these settled principles were not to be applied to the case at bar because:

1. Section 1B1.13 is an applicable policy statement;
2. Application Note 1(D) is not inconsistent with the procedural changes made to Section 3582(c)(1)(A); and
3. Without the BOP courts would effectively have carte blanche to grant or deny motions.

The problem with the Eleventh Circuit's interpretation is simple: by leaving this process up to the BOP to develop those reasons, essentially presupposes the need to petition courts in the first instance, because the BOP will always be right in its assessment, and defendants are not capable of identifying their own needs, whether they be medically related, or sentence-based (something the BOP never delves into as a policy), which eliminates any force in the position taken by the court below.

We respectfully urge that all aspects of this decision are erroneous and at variance with several other courts of appeals as explained in the argument below.

ARGUMENT FOR ALLOWANCE OF WRIT

I. THE COURT OF APPEALS ERRED IN AFFIRMING THE DISTRICT COURT'S DENIAL OF COMPASSIONATE RELEASE BY APPLYING §1B1.13 AS AN APPLICABLE POLICY STATEMENT

To be clear, the district court's order denying Petitioner Compassionate Release was very brief—2 pages. It alleged that it lacked jurisdiction to consider the request, which the Eleventh Circuit decided meant that it could not find extraordinary and compelling reasons to justify relief. See Appx at 2.

In United States v. Long, 997 F.3d 342 (D.C. 2021), the court below examined the Eleventh Circuit's reasoning in depth:

> Recently, a divided decision of the Eleventh Circuit ruled that U.S.S.G. § 1B1.13 is applicable to defendant motions for compassionate release. Bryant, 2021 U.S. App. LEXIS 13663, 2021 WL 1827158, at *6. The court reasoned that the pre-First Step Act policy statement is "capable of being applied" to those motions, and so it must be "applicable" within the meaning of 18 U.S.C. § 3582(c)(1)(A). 2021 U.S. App. LEXIS 13663 [WL] at *6-7. But that opinion's reliance on dictionary definitions of "applicable" misses the forest for a tree. The decision ignores all of the other words in Section 1B1.13 that already state in plain and clear terms when the policy statement applies: "Upon motion of the Director of the Bureau of Prisons[.]" U.S.S.G. § 1B1.13. As Judge Martin explained, the opinion's "dictionary-based theory about when a policy statement may be 'applicable' flies in the face of the statement's plain text that tells us when it is actually 'applicable.'" Bryant, 2021 U.S. App. LEXIS 13663, 2021 WL 1827158, at *20 (Martin, J., dissenting). In other words, this policy statement "is capable of being applied" to Long's motion, 2021 U.S. App. LEXIS 13663, [WL] at *6, only if we take an eraser to the words that say the opposite.

But the dissent in Bryant is even more illustrative of how

the court below, to put it simply, got it wrong:

> "The First Step Act was signed into law on December 21, 2018. The last meeting of the U.S. Sentencing Commission to convene with a quorum was held on December 13, 2018. This means the Commission has not met with a quorum since the enactment of the First Step Act. During the entire life of the First Step Act, the Commission has therefore been without authority to make revision to the U.S. sentencing Guidelines, the commentary to those guidelines, or the policy statements related to those guidelines to effectuate the First Step Act." See Bryant, 996 F.3d at fn. 1. (Martin, J., dissenting).

The jurisdictional question here is premised on whether Application Note § 1B1.13 is, in fact, applicable. And the only reason that it is a question is because the Eleventh Circuit made it so. The other judicial circuits to have decided the question presented here have made it abundantly clear, that the words "Upon the motion of the Director of the Bureau of Prisons" mean exactly that: his motion. Not that of the defendant. id.

It is for these reasons that the writ should be allowed here.

II. THE COURT OF APPEALS ERRED BY DETERMINING THAT §1B1.13 WAS AN APPLICABLE POLICY STATEMENT TO DEFENDANT-FILED MOTIONS

Application Note 1(D) states: "Other Reasons.—As determined by the Director of the [BOP], there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with the reasons described in subdivisions (A) (C)."

From the Eleventh Circuit's perspective, Application Note 1(D) presents no challenge to a court attempting to follow the plain text of its instruction simply because it can be applied. But the problem lies inherently in the text, becuase the "other reasons" are left to be determined by the Director, which clearly obviates anything a defendant may propound as extraordinary and compelling for himself, and naturally preempt his ability to present his own reasons for relief. A right bestowed upon him by statutory construction because the Director has failed him in the past.

Therefore, resolution and argument are circular, in that the beginning is in the end and vice versa: If defendants are to once again be expected to rely on the BOP, either implicitly or through old policy statements, then Congress' intent smiled upon everyone without any teeth. Must a defendant rely on what was meant for the Director at a time when he himself wouldn't rely on it to release incoherently terminal prisoners? See, e.g., U.S. Dep't of Justice, Office of the Inspector General, Evaluation

and Inspectors Division, The Federal Bureau of Prisons' Compassionate Release Program; (April 2013)("[W]e found that the existing BOP compassionate release program has been poorly managed and implemented inconsistently, likely resulting in eligible inmates not being considered for release and in terminally ill inmates dying before their requests were decided.").[4]

In Petitioner's case, the court below conflated his prison application with the application note, thus boxing him into a place that does not exist in reality.

The critique of Bryant in Long echos the reasons why certiorari is so important in the case at bar, as well as Mr. Bryant himself:

> "Courts have no license under the First Step Act to perform 'quick judicial surgery on [U.S.S.G.] § 1B1.13,***editing out language' that expressly confines its operation to motions filed by the Bureau of Prisons." McCoy, 981 F.3d at 282 (4th Cir. 2020).

This Court itself is always embroiled in the painstaking process of what did Congress intend, and then how to apply that charge without reading what it wants to, but instead what is written.

To round out this point, the Long court also found:

> "At bottom, for a policy statement to be 'applicable', it must, at a minimum, take account of the relevant legislation and the Congressional policy that it embodies. Section 1B1.13 does not do that. And so the problem with the Eleventh Circuit's approach is that it asked the

4 See https://oig.justice.gov/reports/2013/e1306.pdf

> wrong question. The issue here is not the meaning of 'applicable', but rather whether the pre-First Step Act policy statement is applicable. It plainly is not" id.

The Eleventh Circuit also made another mistake when it reached its conclusion, despite vehement dissent, that § 1B1.13 did apply to defendant-filed motions when it cited other unpublished decisions, which sided with its view.

But as the panel in United States v. Tomes, 990 F.3d 500, 503 n.1 (6th Cir. 2021) found, "That is not to say a district court cannot permissively consider those four categories as part of its discretionary inquiry into whether a case presents extraordinary and compelling reasons for release...[B]ecause district courts are free to define 'extraordinary and compelling' on their own initiative, they may look to § 1B1.13 as relevant, even if no longer binding." (internal quotation marks and citation omitted).

Therefore, finding that lower courts are bound to the text of § 1B1.13, is once again a stricture that Congress did not intend.

III. THE COURT OF APPEALS ERRED IN AFFIRMING BY FINDING THAT THE PETITIONER COULD NOT PRESENT ANY EXTRAORDINARY AND COMPELLING REASONS BECAUSE §1B1.13 DID NOT COVER COVID-19 RELATED AILMENTS

In affirming the district court's denial of Petitioner's request for compassionate release, the Eleventh Circuit somehow found that "Garcia made clear on his motion form that he was applying for compassionate release under the catchall provision of § 1B1.13 cmt. n.1, which is subpart (D). But that provision specifically requires the director of the BOP—not the district court—to determine "what reasons not expressly listed in [§] 1B1.13 can be extraordinary and compelling." Bryant, 996 F.3d at 1263; see also § 1B1.13 cmt. n.1(D)."

This finding is problematic in many ways.

First, it still leaves the BOP as the primary force in whether any petitioner for compassionate release will receive a grant purely based on the structure of a form that the BOP printed internally for inmates to follow without any supervisory guidance. As if Congress intended for the BOP to remain instrumental in an inmate/defendant decision-making process.

Second, it was extremely wrong for the Eleventh Circuit to assume that agency requirements comport with statutory allowances made after said agency created its requirement.

Translation: the form in question existed pre-First Step Act under the BOP Program Statement 5050.49. The only difference is that post-FSA, the form was modified to include the final box labeled "Other.-Extraordinary and Compelling Circumstance."

This tends to lend credence to the idea that at least the BOP realized post-FSA, adjustments needed to be made to a form used to determine an inmate/defendant's exhaustion of his administrative remedies. See Appx at 4 Page 8 of 23.

The Eleventh Circuit assumed that the final box corresponded to § 1B1.13 cmt. n.1(D), without any express direction to do so. Then it went further and expected petitioner's to fit within those categories, and if they could not—tough. See, e.g., First Step Act, Pub. L. 115-391, 132 Stat. 5194, 5239 (titling the subsection amending § 3582, "Increasing the Transparency and Use of Compassionate Release".) 164 Cong. Rec. S7314-02, 2018 WL 6350790 (Dec. 5, 2018)(statement by Senator Cardin, cosponsor of the First Step Act, noting that its purpose was to "expand[s] compassionate release" and "expedite[] compassionate release applications").

Again, this is problematic for many reasons. After the court below found a correspondence between the form and 1(D), it ignored the form's directions: "Briefly describe your medical condition or extraordinary and compelling circumstance." And once the inmate does this, he can then provide "Additional Comments:" Therefore, if this whole endeavor is based on semantics and phraseology under new statutory schemes, then the door is opened for the petitioner to describe his own reasons without the BOP's help. It is left to the BOP to then decide if those circumstances are, in fact, extraordinary and compelling.

In all honesty, the only limitation may be found in 28 U.S.C. § 994(t), which finds "rehabilitation of the defendant is

not, by itself, an extraordinary and compelling reason for purposes of this policy statement." See also, 09-cr-60245-WPD (Doc. 503 at page 14 of 23 (Clarification on Reduction in Sentence(RIS) Requests).[5]

Therefore, at least the BOP itself acknowledges that an inmate in its custody may have other reasons that fall outside the scope of its ability, but still allow an avenue to proceed through the exhaustion process.

It is in this light that errors of the court below are most glaring. Because it also found that "[]despite the COVID-19 pandemic, the director of the BOP has not determined that medical conditions that increase an inmate's risk of contracting coronavirus are extraordinary and compelling reasons for compassionate release." Id. but the CARES Act did, and there are multiple district courts that have also found the same, while in many cases coordinating with the Attorney General's Office to find eligible inmates to place in home confinement.

This is a significant distinction that was ignored by the court below in favor of a logic that may not have been well-reasoned when viewed as a whole in contrast to the many courts that have found otherwise.

5 Requests for a Reduction in Sentence will be denied at the institutional level should the request fail to demonstrate extraordinary or compelling circumstances which would warrant a reduction in sentence under BOP guidelines. (emphasis in original).

IV. THE QUESTIONS RAISED IN THIS PETITION ARE IMPORTANT AND UNRESOLVED

The court below has taken a position contrary to its sister circuits, which is clearly against the plain text of the statute and Congress' intent to broaden the use of compassionate release after the BOP's failure to utilize the power itself. Therefore, a defendant has now been allowed to exercise that power himself if he can demonstrate extraordinary and compelling reasons to the district court after exhaustion of his administrative remedies, or the lapse of 30 days.

In Long, the D.C. Circuit captured the Eleventh Circuit's approach in this way:

> "The Eleventh Circuit backhanded the policy statement's express text as "prefatory" language that just "orients the reader by paraphrasing the statute as it existed at the time the policy statement was enacted." Bryant, 2021 U.S. App. LEXIS 13663, 2021 WL 1827158, at *11. Not so. The opening language is not mere prologue. Cf., e.g., Kingdomware Techs, Inc. v. United States, 136 S. Ct. 1969, 1977-1978, 195 L. Ed. 2d 334 (2016). Quite the opposite, the policy statement's first words—"Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. § 3582 (c)(1)(A)"—set out a rigid and indespensable condition of release: that the Bureau of Prisons itself agrees that relief is warranted. In that way, the beginning of the policy statement puts into effect Congress's (now superseded) command that motions for compassionate release may be filed only by the Bureau of Prisons. See United States v. Cogdell, 154 F. App'x 162, 164 (11th Cir. 2005)(defendant did not qualify for downward adjustment under U.S.S.G. § 3E1.1(b) because such an adjustment could only be granted "upon motion of the government" and the government did not so move). To dismiss these words as inert preface is

> to ignore a direct textual instruction and central statutory feature of the compassionate release scheme prior to the First Step Act."

In United States v. Maumau, No. 20-4056 (10th Cir. 2021), that court based its decision on "an individualized review of all the circumstances of Maumau's case." Maj. Op. at 29.

Defendant Kepa Maumau found himself in a situation where the mandatory stacking provision of 18 U.S.C. § 924(c) saddled him with 57 years in prison. However, his post-sentencing conduct, the fact that if he were sentenced today he would not receive such a Draconian sentence, and other Section 3553(a) factors that saw similarly situated defendants (especially on his own case) with lesser sentences; the district court found compassion and released a young man to hopefully demonstrate his worth after serving ten years in prison and the Tenth Circuit affirmed by citing many of its sister circuits. In Bryant, the Eleventh Circuit countered, and therefore, this Petition For Certiorari is warranted to bring all circuits in line with one another.

Finally, should this petition be granted, this Court may find that it is imperative to answer the above questions, because;

1. If § 1B1.13 is an applicable policy statement to defendant-filed motions, then the relevance of the FSA revisions may be viewed with desuetude.

2. This petition presents a question of importance to examine a novel area of law that appears to perplex the lower courts in the absence of guidance.

Without a quorum the Sentencing Commission has not updated its list of what constitutes extraordinary and compelling reasons to justify relief. However, the courts below, except for a select few, have navigated the course well. See e.g., Shon Hopwood, Second Looks & Second Chances, 41 Cardozo L. Rev. 83, 110-111 (2019) (arguing Congress did not make § 924(c) sentence-stacking retroactive because it did not want to make all inmates "categorically" eligible for sentencing relief, but Congress meant for relief from Draconian sentences to apply "individually").

CONCLUSION

The Petitioner respectfully submits the foregoing brief in support of his Petition For Certiorari in the hope that the judgment below be reversed, because a statute should always be read wher its plain text has meaning, without embellishment, or extraneous requirements read into it.

This Petition For a Writ of Certiorari should, therefore, be granted.

agosto 9 2021
Dated:

Respectfully Submitted,
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