

No. 21-7021

Supreme Court, U.S.
FILED

DEC 22 2021

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN MATTHEW GAYDEN, JR. — PETITIONER, PRO SE, PRISONER
(Your Name)

vs.

UNITED STATES OF AMERICA. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(10-26-2021)
U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHN MATTHEW GAYDEN, JR.

(Your Name)

LSCE, BUTNER
P.O. BOX 999

(Address)

BUTNER, NORTH CAROLINA 27509

(City, State, Zip Code)

N/A

(Phone Number)

ORIGINAL

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:

In the United States Court of Appeals
for the Eleventh Circuit

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

No. 21-11797-GG

JOHN GAYDEN, JR.,
Defendant-Appellant

**United States' Certificate of Interested
Persons and Corporate Disclosure Statement**

In addition to the persons identified in the initial certificate of interested persons and corporate disclosure statement filed by John Gayden, Jr., the following persons have an interest in the outcome of this case:

1. Hall, Alec F., Federal Public Defender;
2. Hill, Dana E., Assistant United States Attorney;
3. Hoffman, Hon. Leslie R., United States Magistrate Judge;
4. Hoppmann, Karin, Acting United States Attorney;
5. Kahn, Conrad, Federal Public Defender's Office;
6. Kamalzadeh, Ali, Federal Public Defender's Office; and
7. Skuthan, James T., former Acting Federal Public Defender.

United States of America v. John Matthew Gayden, Jr.

CERTIFICATE OF INTERESTED PERSONS - CONT'D

Rhodes, David

Ryan, Michael Shay

Salicrup, Alejandro J.

Spaulding, Karla R. - U.S. Magistrate Judge

Smith, Thomas B. - U.S. Magistrate Judge

I CERTIFY THAT THIS IS A COPY OF CERTIFICATE OF
INTERESTED PERSONS AND CORPORATE DISCLOSURE
STATEMENT AS OF DEC 1, 2021.

John Matthew Gayden, Jr.
JOHN MATTHEW GAYDEN, JR.
1462242-018, VANCE A
PCI BUTNERLOW
P.O. BOX 999
BUTNER, N.C. 27509-0999

United States of America v. John Matthew Gayden, Jr.

CERTIFICATE OF INTERESTED PERSONS

The persons listed below are interested in the outcome of this case:

Bentley, III, A. Lee

Cakmis, Rosemary

Chiu, Vincent

Elm, Donna Lee

Gayden, Jr., John Matthew

Ho, Katherine M.

Kamalzadeh, Ali

Kelly, Gregory J. — U.S. Magistrate Judge

Lopez, Maria Chapa

McNamara, Linda Julin

Mendoza, Carlos E. — U.S. District Judge

Mouakar, Nicole

Muldrow, W. Stephen

Nair, Alisha Marie (Scott)

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APPENDIX A DENIAL OF MOTION FOR COMPASSIONATE RELEASE,
PURSUANT SECTION 3582(C)(1)(A) BY U.S. DISTRICT COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT. CASE # 21-11797-GG DENIED 10-26-2021

(1)

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

PETITIONER REQUESTS AN ENCARGEMENT OF PAGE LIMIT TO PROPERLY
PRESENT PETITIONER'S CLAIMS. NO PUBLICLY TRADED COMPANY OR CORPORATION
HAS AN INTEREST IN THE OPINIONS BELOW
THE OUTCOME OF THIS APPEAL.

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to
the petition and is CASE # 21-11797 (10-26-21)

☒ reported at U.S. COURT OF APPEALS, 11TH CIRCUIT; or,

☒ has been designated for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

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; or,

☐ is unpublished.

The opinion of the _____ court
appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

(3)

OPINIONS AND ORDERS BELOW

THE 11TH CIRCUIT CASE #21-11797GG WAS DENIED ON OCTOBER 26, 2021. (APPENDIX A). THE 11TH CIRCUIT DENIED PETITIONER'S COMPASSIONATE RELEASE FOR "OTHER REASON" OR "EXTRAORDINARY AND COMPELLING CIRCUMSTANCES". IN ADDITION PETITIONER'S "MOTION TO CORRECT CRIMINAL CONDUCT USED TO DENY REDUCTION OF SENTENCE MOTION" WAS DENIED. THE 11TH CIRCUIT FAILED TO ADDRESS PETITIONER'S VIOLATION OF THE EIGHTH CONSTITUTIONAL AMENDMENT CLAIM OF "CRUEL AND UNUSUAL PUNISHMENT" NOT CONTEMPLATED BY SENTENCING COURTS, INCREASING THE PUNITIVE VERDICT DURING THE COVID-19 PANDEMIC IN PRISONS.

(3)

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 10-26-21.

☐ 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: _____, 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 _____ (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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, 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 _____ (date) in Application No. A _____.

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

(4)

QUESTIONS PRESENTED

STATEMENT OF SUBJECT MATTER AND JURISDICTION

ISSUE I

PETITIONER'S NOTICE OF APPEAL IS TIMELY FILED (EXHIBIT A) FOR DENIAL OF PETITIONER'S MOTION FOR COMPASSIONATE RELEASE PURSUANT TO 18 U.S.C. SECTION 3582 (K)(1)(A)(i) AND "CARES ACT." THE RELEVANT CIRCUIT COURT OF APPEALS DENIED PETITIONER'S MOTION ON 10-26-2021, CASE #21-1179766. THE SUPREME COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 1254(1).

AN IMPORTANT CONSTITUTIONAL CONFLICT OCCURRED WITH THE 11TH CIRCUIT COURT OF APPEALS PROHIBITING THE COMPASSIONATE RELEASE STATUTE FROM CHALLENGING EXCESSIVE SENTENCES CONTRADICTING PRESIDENT BIDEN, SENATE, CONGRESS, SENTENCING COMMISSION, AND 91 NINE FEDERAL COURTS OF APPEAL INTENTIONS CREATING A VIOLATION OF EQUAL RIGHTS AMONG FEDERAL INMATES.

ISSUE II - VIOLATION OF THE EIGHTH CONSTITUTIONAL AMENDMENT DUE TO COVID VARIANT STRAINS WHICH CREATED CRUEL AND UNUSUAL PUNISHMENT AT FCI, BUTNER DUE TO LACK OF MEDICAL CARE AND POLICY AND PROCEDURES WHICH WERE INADEQUATE TO PREVENT THE DEATHS OF 93 NINETY-THREE PRISONERS WHICH CAUSED THE HOMICIDE AT FCI, BUTNER IN 2020 BY TAMARA S. LYNN, WARDEN ILL, BUTNER. TAMARA S. LYNN DID NOT PROVIDE ADEQUATE MEDICAL CARE TO PREVENT THEIR DEATHS AND FAILED TO FULLY LEVERAGE HER

(5)

QUESTIONS PRESENTED

STATEMENT OF SUBJECT MATTER AND JURISDICTION

EXISTING AND EXPANDED AUTHORITY UNDER THE "CARESACT" AND THE ATTORNEY GENERAL'S GUIDANCE TO PROMPTLY TRANSFER ALL BUTNER INMATES TO HOME CONFINEMENT. THE MOST RECENT COVID VARIANT OMICRON WITH OVER 26 DNA MUTATIONS ON ITS SPIKES, MAKES IT THE MOST TRANSMISSIBLE, MOST LETHAL OF ALL COVID VARIANTS. VACCINATIONS, HAND WASHING, MEDICALLY UNAPPROVED CLOTH MASKS AT KCF, BUTNER WITH OPEN DORMITORY BAYS ARE NOT EFFECTIVE. ELDERLY PRISONERS OVER 65 ARE HIGH RISK AT BUTNER, LOW. ELDERLY INMATES OVER 65 YEARS OF AGE WITH CO-MORBIDITIES LISTED BY THE CDC ARE EVEN MORE HIGH RISK FOR DEATH. MY ARGUMENT IS "PERSUASIVE" BECAUSE THE WARDEN AT KCF, BUTNER CONTINUES TO FAIL TO TAKE APPROPRIATE MEASURES AND THE HOMICIDE OR MORE INMATES AT KCF, BUTNER WILL OCCUR IN 2022 BECAUSE HIGH RISK, VULNERABLE, AND ELDERLY INMATES WHO ARE IMMUNOSUPPRESSED DUE TO AGE WILL NOT BE RELEASED TO HOME CONFINEMENT. THE SUPREME COURT CAN SAVE THE PETITIONER'S LIFE AND THE IMPACT OF THE SUPREME COURT'S FAVORABLE COMPASSIONATE RELEASE ORDER WILL SAVE LIVES AT KCF, BUTNER AND OTHER FEDERAL PRISONS. THE ELEVENTH CIRCUIT COURT OF APPEALS DENIED PETITIONER'S MOTION ON 10-26-2021, CASE # 21-11797 GG. THE SUPREME COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 1254(1).

(6)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. CONSTITUTIONAL AMENDMENT I

U.S. CONSTITUTIONAL AMENDMENT II

U.S. CONSTITUTIONAL AMENDMENT III

U.S. CONSTITUTIONAL AMENDMENT IV

U.S. CONSTITUTIONAL AMENDMENT V

28 U.S.C. SECTION 1254(1)

28 U.S.C. SECTION 1251

28 U.S.C. SECTION 1291

18 U.S.C. SECTION 3582 (C)(1)(A)(i)

"CARBS ACT" PUB. L. #116-136, SECTION 12003(b)(2),
134 STAT 281,516 BASED ON COVID-19.

FIRST STEP ACT AND REVISIONS (PSIA) FIRST STEP
IMPLEMENTATION ACT OF 2021 (S. 1014) (MAY 27, 2021)
MAKING FIRST STEP ACT RETROACTIVE
COVID SAFETY DETENTION ACT: S. 312 (MAY 31, 2021)

AMENDMENT 782 - VIOLATION OF CONSTITUTION AND
FIRST STEP ACT: ^{NOT IDENTIFIED OR CONVICTED BY A JURY} ENHANCEMENTS AND RELATED CONDUCT ~~WAS~~

28 U.S.C. 3582 (C)(2) ESTABLISHES AN EXCEPTION TO
THE GENERAL RULE OF FINALITY "IN THE CASE OF A DEFENDANT
WHO HAS BEEN SENTENCED TO A TERM OF IMPRISONMENT
BASED ON A SENTENCING RANGE THAT HAS BEEN SUBSEQUENTLY
LOWERED BY THE SENTENCING COMMISSION PURSUANT

CONSTITUTIONAL AND STATUTORY PROVISIONS

28 U.S.C. SECTION 994(O) AND MAKE RETROACTIVE PURSUANT TO SECTION 994(U). IN SUCH CASES, CONGRESS HAS AUTHORIZED COURTS TO "REDUCE THE TERM OF IMPRISONMENT, "82S AFTER CONSIDERING THE FACTORS SET FORTH IN SECTION 3553(C) TO THE EXTENT THAT THEY ARE APPLICABLE, IF SUCH A REDUCTION IS CONSISTENT WITH APPLICABLE POLICY STATEMENTS ISSUED BY THE SENTENCING COMMISSION." SECTION 3582 (C)(2).

"SAFETY VALVE" IN 18 U.S.C. 3553(F) ALLOWS A DISTRICT COURT TO SENTENCE A DRUG DEFENDANT BELOW A MANDATORY MINIMUM SENTENCE IF HE OR SHE MEETS CERTAIN CRITERIA. WHEN THE PETITIONER DOES MEET (1) NO GUN (2) NO VIOLENCE (3) NOT A LEADER (4) ADMITS SOME ROLE IN THE OFFENSE.

SAFER DETENTION ACT S. 312 (MAY 31, 2021) CHANGES (FOHD) (FOHD) ELDERLY OFFENDERS PETITIONER OVER 60 YEARS OR AGE, DURING THE COVID PANDEMIC HAS THE RIGHT TO APPLY FOR COMPASSIONATE RELEASE IF HE HAS A COVID RISK FACTOR AND IS DEEMED TO HAVE AN "EXTRAORDINARY AND COMPELLING REASON" FOR SENTENCE REDUCTION UNDER 18 U.S.C. 3582(C)(1)(A)(i).

BIDEN CLEARLY PLAT - (N.Y. TIMES AUG 30, 2021) "COMMITTEE SENTENCES OF DRUG OFFENDERS TO HOME CONFINEMENT" FOR AN END OF SENTENCE TO HOME CONFINEMENT

NEIL GORSUCH, SUPREME COURT JUSTICE, PUSHES FOR STRONGER FOURTH AMENDMENT PROTECTIONS (FEB 2021)

CONSTITUTIONAL AND STATUTORY PROVISIONS

HIPPA PROTECTED HEALTHCARE INFORMATION

42 U.S.C. AND 1302 (a), 1320 d, et seq; 45 C.F.R. AND 163.103

HIPPA PROTECTED HEALTHCARE INFORMATION DERIVED

45 C.F.R. AND 164.502 (PRIVACY RULE).

HIPPA PRE-EMPTS CONTRARY STATE LAW

45 C.F.R. AND 160.203.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

OTHER

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CASES

(1) HUGES V. ROWE, 499 U.S. 59, (1980)

(2) ARGERSINGER V. HAMLIN, 407 U.S. 25 (1972)

(3) U.S. V. BOOKER, 543 U.S. 220, 244, 125 S. CT 738, 756
160 L. ED 621 (2005) (2014)

(4) APPENDIX V. NEW JERSEY, 530 U.S. 466, 490, 120 S. CT 2348
147 L. ED 2d 435 (2000)

(5) FIRST STEP ACT AND REVISIONS (FSTA) FIRST STEP
IMPLEMENTATION ACT OF 2021 (S. 1014) MAY 27, 2021.

(6) U.S. V. MCCOY, #6821, 2020 App LEXIS 37661 (4TH CIR. DEC. 2, 2020).

(7) U.S. V. MCGEE, #20-5047 2021 U.S. App LEXIS 9074
(10TH CIR. MARCH 29, 2021).

(8) U.S. V. MAYMAU, #4056, 2021 U.S. App LEXIS 9510
(10TH CIR. APRIL 1, 2021).

(9) US V. KIBBLE, #20-7009, 2021 U.S. App. LEXIS 9530
(4TH CIR. APRIL 6, 2021)

(10) U.S. V. CAMERON 2021 U.S. LEXIS 62694

(11) U.S. V. SHAMAMBI, #20-40543, 2021 LEXIS 10053
(5TH CIR. APRIL 7, 2021).

(12)

CASES

(12) U.S. V. ARUDA, #20-10245, U.S. App LEXIS 10119.
(9TH CIR. APRIL 8, 2021)

(13) BRYANT V. U.S., #20-1732 CERT. DENIED.

(14) U.S. V. BROOKER, 976 F.3d 288-235-236 (2ND CIR. 2020)

(15) U.S. V. GROUT #2:17-cr-104, 2021 U.S. DISTRICT LEXIS
65194 (D. UTAH APRIL 2, 2021).

(16) U.S. V. SWERT, 2021 U.S. DISTRICT LEXIS 69177
(E. D. MICH. APRIL 7, 2021)

(17) BORDEN V. U.S., #19-5410, 2021 (JUNE 10, 2010)

(18) EGBERT V. BOULE #21-147 CERT. NOV. 5, 2021

(19) KAHN V. U.S.A. #20-5261 CERT. NOV. 5, 2021

(20) RUAN V. U.S.A. #20-1410 CERT. NOV. 5, 2021

(21) TURNER V. SAFELY, 482 U.S. 78 (1987).

(22) BIVENS V. SIX UNKNOWN NAMED AGENTS OF THE
FEDERAL BUREAU OF NARCOTICS, 403 U.S. 388 (1971)

(23) WALTER V. TRUE, 399 F.3d 315 (4TH CIR. 2005).

CASES

(24) (TRAC) TRANSACTIONAL RECORDS ACCESS CLEARING HOUSE AT SYRACUSE UNIVERSITY "EQUAL JUSTICE AND SENTENCING PRACTICES AMONG FEDERAL DISTRICT COURT JUDGES. (SEP. 30, 2020).

(25) U.S. V. KELLY, 880 F.2d 732 (11TH CIR. 1989)

(26) SUBSTANCE OF THE MODEL CODE OF JUDICIAL CONDUCT
CANON #2: A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES
CANON #3 - A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY.

(27) U.S. V. BAKER, 432 F.3d 1189, 1203 (11TH 2005)

(28) U.S. V. HAYES, 969 F.2d 230, 236, (3d CIR. 1991)

(29) JOHN M. GAYDEN V. CARUATAL RE. AL,
 CASE 2:13-31 FEDERAL QUESTION BIVENS ACT,
 PRISON CONDITIONS, EASTERN DISTRICT NY, WESTERN DIVISION
 CASE # 5:20-CV-03139-M (FILED 4-14-2020).

(30) GAYDEN V. U.S. 11TH CIR. CASE # 21-11797 GG
 DENIED OCT. 26, 2021. (APPENDIX A)

(31) GAYDEN V. U.S. # 20-2896 CERT DENIED OCT. 6, 2021

(14)

CASES

(32) U.S. v. GAYDEN 977 F.3d 1146 (11th Cir. Oct 9, 2020)

(15)

STATEMENT OF THE CASE



STATEMENT OF CASE

THIS COURT IS REQUIRED TO HOLD A "PRO SE"
- PLEADING TO LESS STRINGENT STANDARD THAN THOSE
DRAWN BY ATTORNEYS, HUGHES V. ROWE, 499 U.S.
5, 9, (1990). AND MUST LIBERALLY CONSTRUCT COMPLAINTS
FILED BY "PRO SE" LITIGANTS, TO PERMIT THE
DEVELOPMENT OF A POTENTIALLY MERITORIOUS
CASE.

STATEMENT OF CASE

ISSUE I

THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DENIED PETITIONER'S MOTION FOR COMPASSIONATE RELEASE PURSUANT TO 18 U.S.C. SECTION 3582(K)(1)(A)(i) "CARES ACT" ON 10-26-2021, #21,11797GG. THE ELEVENTH CIRCUIT RULED THAT 18113 GUIDELINES PROHIBIT COMPASSIONATE RELEASE FOR REASONS OTHER THAN IDENTIFIED BY THE U.S. SENTENCING COMMISSION.

THE CURRENT VERSION OF U.S.S.G. STATE "MOTIONS FILED BY A DEFENDANT ARE NOT BINDING." THE ELEVENTH CIRCUIT CONTRADICTS THE OTHER (9) NINE FEDERAL APPELLATE COURTS WHO AGREE THAT INMATE FILED COMPASSIONATE RELEASE MOTIONS IS NOT LIMITED BY THE U.S.S.G. ON THE 18113 POLICY STATEMENT. THE ELEVENTH CIRCUIT OPINION AFFECTS AS MANY AS 160,000 FEDERAL INMATES AND IS AN IMPORTANT CONSTITUTIONAL ISSUE WHICH CAN NOT IGNORE PRESIDENT BIDEN, SENATE AND CONGRESSIONAL U.S.S.G. GUIDELINE INTENTIONS TO APPLY EQUAL JUSTICE FOR ALL FEDERAL INMATES.

PETITIONER IS AN ELDERLY 68 YEAR OLD INMATE WITH DECREASED IMMUNITY AND HAS A TERMINAL ILLNESS OR (PTD) FRONTAL TEMPORAL DEMENTIA WHICH IS UNDENIED BY THE BUREAU OF PRISONS. THE CENTER FOR DISEASE CONTROL DESIGNATES THE PETITIONER AS HIGH RISK FOR COVID-19 INFECTION AND DEATH IN PRISON. PRISON CONDITIONS AT BROWER LSCI OF CRUEL AND UNUSUAL

STATEMENT OF CASE
ISSUE I

(18) (18) (18)

PUNISHMENT VIOLATED MY EIGHTH CONSTITUTIONAL AMENDMENT RIGHTS, NOT CONTEMPLATED BY SENTENCING COURTS, INCREASING THE PUNITIVE EFFECT.

PETITIONER WAS NOT TREATED EQUALLY WITH THE 16,000 FEDERAL INMATES RELEASED UNDER THE "CARES ACT" AND ATTORNEY GENERAL BARR IN 2020.

AT LEAST (310) THREE HUNDRED TEN INMATES RELEASED HAD AT LEAST (5) FIVE YEARS LEFT ON THEIR SENTENCES.

PETITIONER IS A NON-VIOLENT, FIRST TIME OFFENDER WITH A "MINIMAL" RISK ASSESSMENT SCORE AND MINIMAL RECIDIVISM SCORE WHO WILL NOT BE ABLE TO EVER PRACTICE GENERAL INTERNAL MEDICINE AGAIN AND IS NOT LONGER A "DANGER TO THE COMMUNITY".

PETITIONER'S COMPASSIONATE RELEASE MOTION ALSO CLAIMED PREJUDICIAL JUDICIAL MISCONDUCT FOR TRIAL BIAS AND SENTENCING PREJUDICE FOR JUDGE CARLOS E. MENDOZA'S ABUSE OF DISCRETION, WHICH WAS ALSO DENIED ON 10-26-2021 AND PRESENTLY APPEALED BY PETITIONER. (TRAG) TRANSACTIONAL RECORDS ACCESS CLEARING HOUSE AT SYRACUSE UNIVERSITY "EQUAL JUSTICE AND SENTENCING PRACTICES AMONG FEDERAL DISTRICT COURT JUDGES (SEPT. 30, 2022). JUDGE MENDOZA'S, MIDDLE DISTRICT OF FLORIDA, ORLANDO DIVISION, IS MORE THAN (60) SIXTY MONTHS HIGHER THAN IN ANY OTHER DISTRICT COURT IN THE UNITED STATES.

STATEMENT OF CASE ISSUE

HARGERSINGER V. HAMLIN, 407 U.S. 25 (1972).

GIVES THIS INDIGENT PETITIONER, DEFENDANT
RIGHT TO COUNSEL IN ALL CRIMINAL PROSECUTIONS
CARRY SENTENCE OR IMPRISONMENT. THE
PETITIONER WAS DENIED COUNSEL IN PETITIONER'S
DISTRICT COURT AND THE 11TH CIRCUIT COURT OF
APPEALS. I REQUEST COUNSEL TO ARGUE IN
THE SUPREME COURT MY COMPASSIONATE
RELEASE.

3RD CIRCUIT - "INMATE FILED COMPASSIONATE
RELEASE MOTION IS NOT LIMITED BY THE 181.13
POLICY STATEMENT."

4TH CIRCUIT - THE FOURTH CIRCUIT COURT AGREED
WITH BOOKER, GUNN, AND JONES THAT 181.13; BECAUSE
IT REFERS TO COMPASSIONATE RELEASE MOTIONS
FILED BY THE BOP, IS NOT "AN APPLICABLE POLICY
STATEMENT" WITHIN THE MEANING OF THE STATUTE,
AND THUS MAY BE IGNORED. THE 4TH CIRCUIT HELD
THAT "THE DISTRICT COURTS IN THESE CASES
APPROPRIATELY EXERCISED THE DISCRETION
CONFERRED BY CONGRESS. "WE SEE NO ERROR IN
THEIR RELIANCE ON THE LENGTH OF THE DEFENDANTS
SENTENCES, AND THE DRAMATIC DEGREE TO WHICH
THEY EXCEEDED WHAT CONGRESS NOW DEEMS
APPROPRIATE, IN FINDING "EXTRAORDINARY AND

STATEMENT OF CASE

ISSUE C

COMPPELLING REASONS" FOR POTENTIAL SENTENCE REDUCTIONS.

US. V. MC COY, # 6821, 2020 App LEXIS 37661 (4TH CIR. DEC 2, 2020).

THE FOLLOWING COURTS HAVE GRANTED
"EXTRAORDINARY AND COMPELLING CIRCUMSTANCES"
AND HAVE GRANTED HOME CONFINEMENT FOR
"THESE CONDITIONS NOT CONTEMPLATED BY THE
SENTENCING COURT, UNDOUBTLY INCREASE A PRISON
SENTENCE PUNITIVE EFFECT."

US V. MC GEE, # 20-5047, 2021 US App LEXIS 9074
(10TH CIR. MARCH 29, 2021).

US V. MAUMAU, # 4056, 2021 U.S. APP LEXIS 9510
(10TH CIR. APRIL 1, 2021).

US V. KIBBLE, # 20-7009, 2021 US App. LEXIS 9530
(4TH CIR. APRIL 1, 2021).

US V. CAMERON 2021 U.S. LEXIS 62694

5TH CIRCUIT - 131.13 INAPPLICABLE. "131.13 SAYS
IT ONLY APPLIES TO MOTIONS OF THE DIRECTOR OF
THE BUREAU OF PRISONS," BUT IT DOES NOT GOVERN
HERE ON THE NEWLY AUTHORIZED MOTION OF A
PRISONER.

US V. SHAMBL, # 20-40543, 2021 LEXIS 10053
(5TH CIR. APRIL 7, 2021).

STATEMENT OF CASE, ESSURE

9TH CIRCUIT "THE CURRENT VERSION OF U.S.S.G. 1B1.13 IS NOT APPLICABLE POLICY STATEMENT FOR 18 U.S.C. 3582(C)(1)(A) MOTIONS FILED BY A DEFENDANT," THE SENTENCING COMMISSION'S STATEMENTS IN U.S.S.G. 1B1.13 MAY INFORM A DISTRICT COURT'S DISCRETION FOR 3582(C)(1)(A) MOTIONS FILED BY A DEFENDANT, BUT THEY ARE NOT BINDING.

U.S. V. ARUDA, # 20-10245, U.S. App LEXIS 10119 (9TH CIR. APRIL 8, 2021).

BRYANT V. U.S., # 20-1732, PETITION FOR CERT. PENDING (COMPASSIONATE RELEASE DECLINED IN THE 11TH U.S. CIRCUIT COURT OF APPEALS FOR EXCESSIVE SENTENCES).

U.S. V. BROOKER, 1B1.13 VOID IN MOTIONS BROUGHT BY INMATES.

U.S. V. GROT # 2:17-cr-104, 2021 U.S. DISTRICT LEXIS 65194 (D. UTAH APRIL 2, 2021).

"PERSUASIVE" THAT COVID IMMUNITY ONLY LASTED 90 DAYS.

U.S. V. SWEET, 2021 U.S. DISTRICT LEXIS 69177

(REID MICH. APRIL 2, 2021.) VACCINATIONS DON'T COMPLETELY PROTECT BLAKEY ANN IMMUNOCOMPROMISED.

U.S. V. BROOKER 1B1.13 VOID IN MOTIONS BROUGHT BY INMATES.

BORDEN V. U.S., # 19-5410, 2021 (JUNE 10, 2010) FIRST STEP ACT MAKES COMPASSIONATE RELEASE MOTIONS AVAILABLE FOR INMATES TO BRING DIRECTLY TO COURT

STATEMENT OF CASE ISSUE II

8TH CONSTITUTIONAL AMENDMENT PROVIDES IN RELEVANT PART: "NO PERSON SHALL... BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OR LAW."

KATIN V. USA CERT. NO. 5TH # 20-5261

RYAN V. USA CERT NO. 5TH # 20-1410

US V. PARKER, 586 F.2d 422, 431 (5TH CIR 1978)

8TH U.S. CONSTITUTIONAL AMENDMENT PROVIDES IN RELEVANT PART: "CRUEL AND UNUSUAL PUNISHMENT SHALL NOT BE INFLICTED"

THE RESPONDENTS VIOLATED PETITIONER'S 8TH CONSTITUTIONAL AMENDMENT BY THE DANGEROUS AND UNBEARABLE CONDITIONS AT ICE, BUTNER WHERE TAMARA S. LYN, WARDEN MURDERED 93 INMATES WITH COVID IN 2020 DUE TO DENIAL OF MEDICAL CARE.

TAMARA S. LYN'S FAILURE TO ACT AMOUNTED TO HOMICIDE IN DELIBERATE INDIFFERENCE TO THEIR SERIOUS NEED AND TO ~~RESPOND~~ PETITIONER'S CARE. TAMARA S. LYN WAS AWARE OF THE ELDERLY HIGH RISK INMATES WITH COMORBIDITIES. THE RISK OF DEATH WAS OBVIOUS. ACCORDING TO THE (OIG) OFFICE OF THE INSPECTOR GENERAL REPORT (JAN. 28, 2021), "RISK BASED DECISIONS REGARDING INMATE TRANSFER TO HOME CONFINEMENT IN RESPONSE TO THE COVID-19 PANDEMIC, TAMARA S. LYN, WARDEN LSC, BUTNER DID NOT FULLY LEVERAGE HER EXISTING OR EXPANDED AUTHORITY UNDER THE CORONAVIRUS, AID, RELIEF, AND ECONOMIC SECURITY

STATEMENT OF CASE ISSUE I

ACT AND THE ATTORNEY GENERAL'S GUIDANCE TO PROMPTLY TRANSFER FCC BUTNER INMATES TO HOME CONFINEMENT RESULTING IN THE HOMICIDE OF (93) NINETY-THREE INMATES. NINE (9) FEDERAL APPELLATE CIRCUIT COURTS AGREE THAT BEING IN PRISON WITH COVID-19 WAS NOT CONTEMPLATED BY SENTENCING COURTS, INCREASE THE PUNITIVE EFFECT AND HAVE GRANTED COMMISSIONATE RELEASE.

TAMARA S. ZYN, WARDEN FCC, BUTNER, VIOLATED PETITIONER'S EIGHTH AMENDMENT CONSTITUTIONAL RIGHTS WITH CRUEL AND UNUSUAL PUNISHMENT. TURNER V. SAFLEY, 482 U.S. 78 (1987).

PETITIONER MEETS THE FOUR PRONGED TEST DESIGNATED TO DETERMINE WHETHER REGULATIONS THAT IMPACT PRISONER'S CONSTITUTIONAL RIGHTS WERE VIOLATED JOHN M. GAYDEN V. CARABAL et al.

CASE 28:1331 FEDERAL QUESTION BIOENS ACT, PRISON CONDITIONS, CASE # 5:20-CV-03138-M. (FILED 9-14-2020)

WALKER V. TRUE, 399 F.3d 315 (11TH CIR 2005)

BIOENS V. SIX UNKNOWN NAMED AGENTS OF THE FEDERAL BUREAU OF NARCOTICS, 403 U.S.

382 (1991). "CRUEL AND UNUSUAL PUNISHMENT" 8TH

GAYDEN V. U.S., DENIAL OF CERT SEPT. 27, 2021

#20-7896 (APPENDIX B)

GAYDEN V. U.S. 11TH CIR. CASE # 21-1179766

DENIED OCT. 26, 2021 (APPENDIX A)

U.S. V. GAYDEN 977 F.3d 1146 (11TH CIR. OCT 9, 2020)

(APPENDIX D).

(24)

REASONS FOR GRANTING THE PETITION

(25)

REASONS FOR GRANTING WRIT CONCLUSION

ISSUE I - PETITIONER'S CASE PROVIDES PROTECTION FROM DEATH FOR HIGH RISK FEDERAL INMATES; RELIEF FOR PUNISHMENT NOT CONTEMPLATED BY SENTENCING COURTS; EQUAL JUSTICE AMONG ALL FEDERAL PRISONERS CONSISTENT WITH PRESIDENT BIDEN, SENATE, HOUSE OF REPRESENTATIVES, AND CONGRESSIONAL U.S.S.G. GUIDANCE INTENTIONS.

ISSUE II THE 8TH U.S. CONSTITUTIONAL AMENDMENT PROVIDES IN RELEVANT PART: "CRUEL AND UNUSUAL PUNISHMENT SHALL NOT BE INFLECTED"

THE U.S. SUPREME COURT HAS AN OPPORTUNITY TO REMEDY PETITIONER'S VIOLATION OF 8TH CONSTITUTIONAL AMENDMENT RIGHTS BY THE RESPONDENTS AND SAVE THE PETITIONER'S LIFE AND THE IMPACT OF THE SUPREME COURT'S FAVORABLE COMPASSIONATE RELIEF ORDER WILL SAVE LIVES AT RCF, BUTNER AND ALL OTHER FEDERAL PRISONS.

(26)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

John Matthew Sugden, Jr.

Date: _____

(27)

CERTIFICATION OF PERSONAL OATH

I HEREBY CERTIFY THAT ALL ANSWERS TO THE ABOVE QUESTIONS AND ALL STATEMENTS CONTAINED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEFS. I UNDERSTAND THAT ANY INTENTIONAL MISSTATEMENTS OR MATERIAL FACTS CONTAINED IN THIS MOTION MAY CAUSE ADVERSE ACTION AND MAY SUBJECT ME TO CRIMINAL PROSECUTION.

RESPECTFULLY SUBMITTED THIS 23RD DAY OF
DECEMBER, 2021.

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