No. 21-7097

IN THE SUPREME COURT OF THE UNITED STATES

SINMYAH AMERA CEASAR, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals erred in finding that the district court had imposed an unreasonably low sentence for petitioner's crimes of conspiring to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. 2339B(a)(1) and (d), and obstructing justice while on release, in violation of 18 U.S.C. 1512(c)(1) and 3147.

ADDITIONAL RELATED PROCEEDINGS

United States District Court (E.D.N.Y.):

United States v. Ceasar, No. 17-cr-48 (Aug. 12, 2019) (amended judgment)

United States v. Ceasar, No. 19-cr-117 (Aug. 12, 2019) (amended judgment)

United States Court of Appeals (2d Cir.):

United States v. Ceasar, Nos. 19-2881 & 19-2892 (Aug. 18, 2021)

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 1a-53a) is reported at 10 F.4th 66. The statement of reasons of the district court (Pet. App. 54a-108a) is reported at 388 F. Supp. 3d 194.

JURISDICTION

The judgment of the court of appeals was entered on August 18, 2021. A petition for rehearing was denied on November 9, 2021 (Pet. App. 109a). The petition for a writ of certiorari was filed on February 7, 2022. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the Eastern District of New York, petitioner was convicted on one count of conspiring to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. 2339B(a)(1) and (d), and one count of obstructing justice while on release, in violation of 18 U.S.C. 1512(c)(1) and 3147. Am. Judgment 1-2; see Gov't C.A. App. 11-14, 22. Petitioner was sentenced to 48 months of imprisonment, to be followed by eight years of supervised release. Am. Judgment 2-3. The government appealed the sentence. The court of appeals vacated the sentence and remanded for resentencing. Pet. App. 1a-2a.

1. From January to November 2016, petitioner served as a U.S.-based recruiter for the Islamic State of Iraq and Syria (ISIS) -- a foreign terrorist organization that advocates violence against the United States -- connecting persons in the United States who supported ISIS with ISIS members abroad (typically via social media) to help the supporters join ISIS. Pet. App. 3a, 7a & n.2. The overseas ISIS members petitioner contacted then helped the U.S.-based ISIS supporters travel to ISIS-controlled territory. Id. at 8a. "During her plea allocution, [petitioner] stated that she 'believed that if these individuals made it to ISIS-controlled territory, they would join the group and work under its directions and control.'" Ibid. (brackets and citation omitted).

In addition, petitioner herself made plans to travel abroad to join ISIS. Pet. App. 3a, 8a. She planned "to travel to ISIS territory by way of Sweden, where she planned to marry another ISIS supporter." Id. at 3a. In November 2016, petitioner was arrested at New York's John F. Kennedy International Airport attempting to travel to Sweden via Turkey. Ibid.

Petitioner waived indictment and was charged by information with one count of conspiring to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. 2339B(a)(1) and (d). Gov't C.A. App. 11-16; Gov't C.A. Br. 4. In February 2017, petitioner pleaded guilty to that charge pursuant to a cooperation agreement. Pet. App. 3a; Gov't C.A. App. 18-20.

2. In April 2018, the district court granted petitioner's request for presentence release on bond based on her deteriorating health. Pet. App. 3a, 9a, 56a. Within roughly two months of her presentence release, however, petitioner had committed "widespread violations of her release conditions." Id. at 70a. Among other things, petitioner resumed communications with ISIS supporters (including persons she had previously identified to the Federal Bureau of Investigation (FBI) as ISIS supporters), largely via social media. Id. at 9a-10a. She also intentionally deleted large amounts of data to cover her tracks, including at least 1000 electronic messages, and instructed others to do so. Id. at 10a.

In July 2018, the district court revoked petitioner's presentence release. Pet. App. 10a. When later questioned by law

enforcement about her conduct while she had been on presentence release, petitioner repeatedly lied, making "many false and misleading statements about, among other things, her creation and use of pseudonymous Facebook and email accounts, her familiarity and interaction with an ISIS-related Facebook page and computer application, and her communications with ISIS supporters." Ibid.

Petitioner waived indictment for charges based on her conduct while on presentence release, and she was charged by information with obstructing justice while on presentence release, in violation of 18 U.S.C. 1512(c)(1) and 3147. Pet. App. 11a; Gov't C.A. App. 22. Petitioner subsequently pleaded guilty to that charge pursuant to a plea agreement. Pet. App. 11a.

3. Multiple expert witnesses testified at petitioner's sentencing hearing. Pet. App. 12a-24a. The government presented testimony from two experts who determined that petitioner continued to pose a risk of reoffending. Id. at 13a-19a. While one of those experts "seemed to agree" that deradicalizing petitioner "would reduce the likelihood of reoffending," he testified that the United States did not have adequate deradicalization programs for terrorism defendants like petitioner. Id. at 99a. Petitioner presented expert testimony from three witnesses, who viewed petitioner as unlikely to reoffend. Id. at 19a-24a. One of those witnesses believed that further incarceration would harm petitioner because she had

suffered sexual and physical abuse throughout her life. Id. at 22a-24a.

The district court assigned petitioner a total offense level of 40 and criminal-history category of VI, yielding an advisory Sentencing Guidelines range of 360 months to life imprisonment. Pet. App. 96a. The aggregate statutory maximum sentence for her offenses under 18 U.S.C. 1512(c)(1), 2339B(a)(1), and 3147, was 600 months, Gov't C.A. Br. 32, narrowing petitioner's range to 360-600 months, Pet. App. 25a-26a. That statutory maximum included the ten-year maximum mandatory consecutive term for committing the obstruction-of-justice offense while on release. See 18 U.S.C. 3147; Pet. App. 96a.

Petitioner requested a downward variance to time served and a lifetime term of supervised release, arguing that her "conduct was the product of chronic abuse and that intensive treatment, not prison, was the answer." Pet. App. 24a-25a. The government requested a sentence within petitioner's guidelines range of 360-600 months. Id. at 104a. The government maintained that petitioner's conduct showed "her dangerousness and risk of recidivism" and that "a significant term of incarceration was necessary to incapacitate [petitioner] and to deter those who may otherwise engage in similar conduct in the future." Id. at 25a.

The district court imposed a sentence of 48 months of imprisonment -- an 87% downward variance from the low end of petitioner's range -- consisting of 46 months of imprisonment on

the material-support count, one month on the obstruction-of-justice count, and one month because petitioner committed the obstruction offense while on presentence release, all to run consecutively. Pet. App. 27a, 104a. Because petitioner had been in custody prior to sentencing except for her period of presentence release, petitioner would ultimately "serve[] only 13 additional months from the time of sentencing" in June 2019 until her release from prison in July 2020. Id. at 5a-6a.

Following the sentencing hearing, the district court issued a published statement of reasons for the sentence. Pet. App. 54a-108a. The court acknowledged that, "[w]hatever [petitioner's] motivations, there [wa]s no question that [her] criminal offenses were serious" and that she "'was not simply an individual who posted propaganda.'" Id. at 43a, 99a (citation omitted). The court observed that petitioner had "intentionally and knowingly connected individuals in the United States with those abroad who would do the United States harm." Id. at 99a. The court also found that "[a]n objective observer c[ould] only conclude that [petitioner's] deletion of her communications with others while on presentence release impeded the government's ability to investigate the extent of her bail violations." Ibid. And, although neither party had raised the issue, the court sua sponte considered whether the First Amendment protected any of petitioner's speech or activities supporting ISIS, determining

that "her activity went far beyond speech in physically supporting the cause of [ISIS]." Id. at 104a.

The district court also recounted petitioner's "traumatic childhood," which included being raised by an "ill, single mother" and sexual abuse that led her to ISIS "as a way to deal with her harsh circumstances." Pet. App. 98a. The court further noted that the parties' expert witnesses had "disagreed about the risk of reoffending" but "seemed to agree that deradicalization * * * would reduce the likelihood of reoffending." Id. at 99a. The court additionally concluded that long-term incarceration would be harmful to petitioner's "physical and emotional health" and "extremely harmful to [her] development as a productive member of society." Id. at 102a. In the court's view, "[t]he ideal sentence * * * would be [petitioner's] placement in a deradicalization or disengagement program with provision for intensive educational, emotional, and economic support to address her childhood trauma and its attendant results." Id. at 99a. But the court observed that no such adequate program exists in the United States. Id. at 99a-101a.

4. The government appealed the sentence on substantive-reasonableness grounds. Pet. App. 6a. The court of appeals vacated the sentence as substantively unreasonable, and it remanded for resentencing consistent with 18 U.S.C. 3553(a) and its opinion. Pet. App. 1a-53a.

The court of appeals recognized that this Court's decision in Gall v. United States, 552 U.S. 38 (2007), required it to apply the deferential "abuse-of-discretion standard" in reviewing a sentence for substantive reasonableness. Pet. App. 31a (quoting Gall, 552 U.S. at 51). The court of appeals acknowledged that, under that standard, an appellate court "do[es] do not consider how [it] might have weighed particular factors," and "'[its] role is no more than to patrol the boundaries of reasonableness.'" Ibid. (citation omitted). The court explained that an appellate court instead "consider[s] whether a sentencing factor, as explained by the district court, can bear the weight assigned it under the totality of circumstances in the case." Ibid. (brackets and citation omitted). The court observed that "[a] sentence is substantively unreasonable if 'affirming it would damage the administration of justice because the sentence imposed was shockingly high, shockingly low, or otherwise unsupportable as a matter of law.'" Id. at 31a-32a (citation omitted). And the court noted that, although "'[t]errorism represents a particularly grave threat because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal,'" in terrorism cases -- "[a]s with sentencing appeals in other contexts" -- reversal on substantive-reasonableness grounds is warranted "only in 'exceptional cases.'" Id. at 32a-33a (citations omitted).

Applying those principles, the court of appeals determined that the district court abused its discretion in the circumstances

of this case. Pet. App. 33a-53a. The court of appeals observed that the district court had assigned "overwhelming weight" to petitioner's need for rehabilitation from her troubled upbringing "while failing to give adequate consideration to the competing goals of sentencing" reflected in Section 3553(a). Id. at 52a. The court of appeals explained that those other goals "includ[e] the need for the sentence to protect the public, deter criminal conduct" by a defendant specifically and others generally, "promote respect for the law," and "reflect the seriousness of the offense." Id. at 6a-7a, 29a, 33a-46a, 52a. The court of appeals found that, in particular, the district court had failed to address petitioner's "reoffending conduct while on presentence release, her conduct taken to obstruct justice, and the demonstrated threat she posed to the public when at liberty." Id. at 43a-46a, 51a. The court of appeals also found that the district court "was mistaken in imposing a sentence so heavily based" on petitioner's need for deradicalization or disengagement programs, when it was undisputed that no such programs currently exist. Id. at 34a-35a.

The court of appeals additionally observed that the district court did not appear to have considered whether the sentence it imposed on petitioner "would be 'shockingly low' compared with the sentences imposed on other defendants with similar records who committed similar terrorism crimes." Pet. App. 46a (citation omitted). Comparing other material-support cases, the court of appeals found that the sentences imposed in those cases -- which

ranged from 10 to 20 years of imprisonment -- illuminated "a troubling and unwarranted disparity" in the district court's sentence here, which could not adequately be justified by the fact that, unlike some of the other defendants, petitioner did not plan personally to fight for a terrorist organization. Id. at 35a-42a, 48a-49a, 51a. The court of appeals accordingly determined that the district court's sentence was "shockingly low and therefore substantively unreasonable." Id. at 35a.

5. In August 2021, petitioner failed to appear for a status conference with the district court and removed her electronic ankle monitor. 17-cr-48 D. Ct. Doc. 162, at 1 (Aug. 29, 2021). The court issued a bench warrant for supervised-release violations. Ibid. Petitioner was arrested several days later in New Mexico. Ibid.

In November 2021, the district court ordered petitioner detained pending further proceedings, finding that petitioner presented a flight risk and that no conditions "would ensure her return to court." 17-cr-48 Docket entry (Nov. 10, 2021). The court additionally deferred resentencing, noting that petitioner had indicated her intent to file a petition for a writ of certiorari. Ibid.

ARGUMENT

Petitioner contends (Pet. 26-39) that the court of appeals erred in determining that her sentence for conspiring to provide material support to a terrorist organization and obstructing

justice was substantively unreasonable, asserting that the court applied an erroneous standard of review in vacating her sentence. That contention lacks merit, and the court of appeals' decision does not conflict with any decision of this Court or of another court of appeals. Further review is not warranted.

1. As a threshold matter, review is unwarranted in the case's current posture because the decision below is interlocutory. See, e.g., Brotherhood of Locomotive Firemen & Enginemen v. Bangor & Aroostook R.R., 389 U.S. 327, 328 (1967) (per curiam); Hamilton-Brown Shoe Co. v. Wolf Bros. & Co., 240 U.S. 251, 258 (1916); American Constr. Co. v. Jacksonville, Tampa & Key W. Ry. Co., 148 U.S. 372, 384 (1893); see also Stephen M. Shapiro et al., Supreme Court Practice § 4.18, at 4-54 to 4-58 (11th ed. 2019). "[E]xcept in extraordinary cases, [a] writ [of certiorari] is not issued until final decree." Hamilton-Brown Shoe Co., 240 U.S. at 258.

Although the court of appeals determined that the sentence that the district court had imposed on petitioner was substantively unreasonable in these circumstances and remanded for resentencing, Pet. App. 52a-53a, the court of appeals did not direct the imposition of any particular sentence on remand. The district court then deferred resentencing following petitioner's notification of her intent to seek this Court's review. See p. 10, supra. If petitioner ultimately is dissatisfied with the sentence imposed on remand, and if that sentence is upheld in any

subsequent appeal, she will be able to raise her current claims, together with any other claims that may arise with respect to her resentencing, in a single petition for a writ of certiorari. See Major League Baseball Players Ass'n v. Garvey, 532 U.S. 504, 508 n.1 (2001) (per curiam). This case presents no occasion for this Court to depart from its usual practice of awaiting final judgment before determining whether to review a challenge to a criminal conviction or sentence.

2. Petitioner asserts (Pet. 26-39) that the court of appeals failed to apply the standard for appellate review of substantive-reasonableness challenges set forth in Gall v. United States, 552 U.S. 38 (2007), and instead engaged in "essentially de novo review," Pet. 26 (emphasis omitted). That assertion lacks merit.

a. In Gall, this Court explained that courts of appeals should "review all sentences -- whether inside, just outside, or significantly outside the Guidelines range -- under a deferential abuse-of-discretion standard." 552 U.S. at 41. In doing so, a court of appeals must ensure that the district court "correctly calculate[d] the applicable Guidelines range," "consider[ed] all of the § 3553(a) factors," "ma[de] an individualized assessment based on the facts presented," and "adequately explain[ed] the chosen sentence to allow for meaningful appellate review." Id. at 49-50. If a district court fulfills those procedural requirements, an appellate court may assess the substantive reasonableness of

the sentence. Id. at 51. In conducting its review, an appellate court may not apply a presumption of unreasonableness because the sentence under review is outside the Guidelines range, and it may not deem the sentence unreasonable simply because it would have concluded that a different sentence was appropriate. Ibid.

The court of appeals correctly applied those principles here. Pet. App. 31a-53a. The court recognized that Gall's abuse-of-discretion standard" required it to accord substantial deference to the district court's sentencing decisions. Id. at 31a; see id. at 52a ("Our jurisprudence in this area is built on the understanding that district courts are generally better positioned than appellate courts to make sentencing determinations."). The court of appeals understood that its role is not to second-guess the district court's decisions, but rather "to patrol the boundaries of reasonableness" of those decisions. Id. at 52a (citation omitted). The court of appeals accordingly explained that substantive-reasonableness review consists of, among other things, considering "whether a sentencing factor, as explained by the district court, can bear the weight assigned it under the totality of circumstances in the case" and whether the sentence was "shockingly high, shockingly low, or otherwise unsupportable as a matter of law." Id. at 31a-32a (brackets and citations omitted).

The court of appeals relied on such considerations to find that the district court had abused its discretion in the particular

circumstances of this case. Pet. App. 33a-53a. The court of appeals observed that the district court had assigned "overwhelming weight" to petitioner's "background and ensuing needs for mental healthcare and rehabilitation," but that those mitigating factors "cannot bear the apparently decisive weight assigned to them by the district court." Id. at 33a, 49a, 52a. The court of appeals explained that the district court "appear[ed] to have considered" those mitigating factors "nearly to the exclusion of countervailing sentencing factors," which "includ[e] the need for the sentence to protect the public, deter criminal conduct of the defendant specifically and others generally, promote respect for the law, and reflect the seriousness of the offense committed." Id. at 33a, 52a. And the court of appeals explained that the district court based its sentence on petitioner's need for deradicalization or disengagement programs, even though it was undisputed that no such domestic programs exist. Id. at 34a.

The court of appeals additionally observed that, although the district court had noted "the experts' disagreement" regarding petitioner's "'risk of reoffending,'" it had "not address[ed] the remarkable fact that, independent of the experts' opinions, [petitioner] had indeed already reoffended." Pet. App. 43a. Within approximately two months of her release, petitioner committed "widespread violations of her release conditions." Id. at 70a. Among other violations, petitioner resumed communications

with ISIS supporters (including persons she had previously identified to the FBI as ISIS supporters), largely via social media; she deleted large amounts of data to cover her tracks, including at least 1000 electronic messages; and when questioned by law enforcement about her conduct, petitioner repeatedly lied. Id. at 9a-10a. Petitioner ultimately pleaded guilty to obstruction of justice based on her conduct. Id. at 11a, 43a-46a, 51a. The court of appeals accordingly determined that "the district court abused its discretion as a matter of law by failing to give adequate weight to the gravity of [petitioner's] reoffending conduct while on presentence release, her conduct taken to obstruct justice, and the demonstrated threat she posed to the public when at liberty." Id. at 45a-46a.

Finally, the court of appeals found that the district court apparently had not considered whether petitioner's sentence "would be 'shockingly low' compared with the sentences imposed on other defendants with similar records who committed similar terrorism crimes." Pet. App. 46a (citation omitted). Comparing similar material-support cases, the court of appeals observed that the sentences imposed in those cases (ranging from 10 to 20 years of imprisonment) illustrated that the district court's sentence in this case reflected "a troubling and unwarranted disparity" -- even accounting for the potential mitigating factor that, unlike some of the other similarly situated defendants, petitioner did

not plan personally to fight for a terrorist organization. Id. at 35a-42a, 48a-49a, 51a.

b. Petitioner contends (Pet. 36-37) that the court of appeals improperly substituted its own view of the appropriate sentence for the district court's view by improperly reweighing the sentencing factors. But the court of appeals made clear that its "'role'" was not to "consider how [it] might have weighed particular factors," but instead was "'no more than to patrol the boundaries of reasonableness'" -- an approach that "is built on the understanding that district courts are generally better positioned than appellate courts to make sentencing determinations." Pet. App. 31a, 52a (quoting United States v. Stewart, 590 F.3d 93, 135 (2d Cir. 2009), cert. denied, 559 U.S. 1031 (2010)). And reviewing the district court's balancing of the sentencing factors under that standard, the court of appeals assessed the substantive reasonableness of the sentence and determined that the sentence represented a clear error of judgment. Id. at 6a-7a. At bottom, petitioner simply disagrees with the court of appeals' case-specific determination that the district court abused its discretion by assigning greater weight to some sentencing factors than they can bear and by failing to give meaningful weight to other factors.

Petitioner additionally disputes (Pet. 37-38) the court of appeals' comparison of her sentence with sentences in other cases. But petitioner does not identify any similarly situated defendant

who received a similarly low sentence for providing material support to a foreign terrorist organization. Contrary to her contention (ibid.), petitioner is not similarly situated to the defendant in United States v. Doe, 323 F. Supp. 3d 368 (E.D.N.Y. 2018). The defendant in Doe was sentenced to nearly two years of imprisonment and ten years of supervised release after pleading guilty to one count of providing material support to ISIS and one charge of receiving military-type training from ISIS. Id. at 370, 392. But unlike that defendant, who provided "extraordinary cooperation with law enforcement" for four years and worked with the government to deter others from joining terrorist groups, id. at 389, petitioner reoffended while on release awaiting sentencing, Pet. App. 43a-46a. In any event, the court of appeals' factbound determinations about the district court's inappropriate and incomplete assessment of the proper sentencing factors in the specific circumstances of this case do not warrant this Court's review.

3. Petitioner errs in contending (Pet. 26-33) that the court of appeals improperly applied a more stringent standard in reviewing the substantive reasonableness of her sentence because her offense involves terrorism.

The court of appeals observed that "[t]errorism represents a particularly grave threat because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal." Pet. App. 32a (citation omitted). But the court did not conclude

that a different standard of appellate review was warranted on that basis. To the contrary, the court noted that it had "recognized in terrorism cases, too, that 'sentencing is one of the most difficult -- and important -- responsibilities of a trial judge.'" Id. at 33a (quoting United States v. Thavaraja, 740 F.3d 253, 259 (2d Cir. 2014)). The court accordingly made clear that it "will not lightly set aside such exercises of judicial discretion," but rather, "[a]s with sentencing appeals in other contexts," will "do so only in 'exceptional cases.'" Ibid. (quoting United States v. Cavera, 550 F.3d 180, 189 (2d Cir. 2008), cert. denied, 556 U.S. 1268 (2009)). The court of appeals found that "this [wa]s one such case." Ibid.

Petitioner points to a statement made by the court of appeals in an earlier case, United States v. Mumuni, 946 F.3d 97 (2d Cir. 2019), on which the court relied here, that "terrorism is different" from other offenses. Pet. 3, 22, 30 (quoting Mumuni, 946 F.3d at 112); see Pet. i, 5, 26. The decision below did not repeat that statement, and petitioner misconstrues the statement and takes it out of context. As the court of appeals in this case explained, Mumuni found that a district court "had abused its discretion by imposing a sentence well below the applicable Guidelines range where that sentence was based on, inter alia, assigning mitigating factors weight that they could not bear." Pet. App. 38a (citing Mumuni, 946 F.3d at 112). The defendant in Mumuni "pleaded guilty to multiple terrorism counts, including

conspiracy and attempt to provide material support to ISIS, conspiracy to assault federal officers, attempted murder of federal officers, and assault of a federal officer with a deadly or dangerous weapon," and his offenses carried an advisory guidelines sentence of 85 years of imprisonment. Ibid. (citing Mumuni, 946 F.3d at 101, 104). And the court of appeals explained that, in imposing a 17-year sentence, the district court had "placed improper weight on mitigating factors," such as the defendant's youth, lack of criminal history, and good behavior -- factors that the court of appeals determined could not justify the sentence imposed in light of the gravity of the offense conduct. Id. at 38a-39a (citing Mumuni, 946 F.3d at 108, 112).

Mumuni "conclude[d]" its analysis with the observation that Congress has made a judgment, which the Sentencing Commission has also implemented through the Guidelines, to impose substantial punishment for many terrorism offenses. 946 F.3d at 112. Specifically, the court "underscor[ed] that the Guidelines, while only advisory, appropriately reflect Congress's considered judgment that terrorism is different from other crimes. 'Terrorism represents a particularly grave threat because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal.' Moreover, when it comes to sentencing terrorism, Congress and the United States Sentencing Commission 'plainly intended for the punishment of crimes of terrorism to be significantly enhanced without regard to whether,

due to events beyond the defendant's control, the defendant's conduct failed to achieve its intended deadly consequences.' Thus, in determining what constitutes a 'sufficient' sentence for a terrorist defendant whose conduct did not result in death or physical injury, a sentence at the high end of the applicable range may plainly be reasonable if supported by the balance of § 3553(a) factors." Id. at 112-113 (brackets and footnotes omitted). Mumuni's focus on Congress's and the Commission's decision not to make the success or failure of an attempted terrorist offense dispositive of the appropriate punishment, see id. at 112-113, does not demonstrate that it has departed from Gall's deferential standard of review in terrorism cases.

Neither the court of appeals' observation in Mumuni that "terrorism is different" in that sense, 946 F.3d at 112, nor the court's citations and discussion of Mumuni in this case, Pet. App. 32a, 38a-40a, 46a, 51a, reflect a departure from the principles that this Court has articulated governing substantive-reasonableness review. Contrary to petitioner's contention (Pet. 30), the decision below does not impose "a categorical limit on downward variances in [terrorism cases]." The court of appeals in this case recognized "that the mitigating factors" present here -- "the abuse [petitioner] has suffered and her ensuing needs for mental healthcare and rehabilitation -- may merit significant consideration" and "may indeed merit, in the court's discretion, a below-Guidelines sentence." Pet. App. 49a, 52a. But the court

nonetheless found that, under the particular circumstances of this case, the mitigating factors "cannot bear the apparently decisive weight assigned to them by the district court." Id. at 49a; see id. at 52a.

4. Petitioner does not contend that the decision below conflicts with any decision of another court of appeals. To the contrary, the only out-of-circuit authority that petitioner identifies (Pet. 27-29) are decisions that he views as consistent with the decision below. As those citations reflect, the decision below is no outlier, but instead accords with decisions of other courts of appeals considering similar cases. See, e.g., United States v. Ressam, 679 F.3d 1069, 1071, 1088 (9th Cir. 2012) (en banc) (finding that a 22-year sentence of imprisonment for the attempted bombing of LAX airport was unreasonably low where the advisory Guidelines sentence was 65 years); United States v. Jayyousi, 657 F.3d 1085, 1118 (11th Cir. 2011) (finding a sentence unreasonably low where the district court varied downward 42% from the advisory Guidelines range of 180 months of imprisonment for a material-support conviction), cert. denied, 567 U.S. 938, and 567 U.S. 946 (2012); United States v. Abu Ali, 528 F.3d 210, 258-265 (4th Cir. 2008) (finding that a 30-year sentence of imprisonment was unreasonably low where the district court failed to justify its large variance from the advisory Guidelines sentence of life imprisonment), cert. denied, 555 U.S. 1170 (2009).

As the court of appeals observed, recent cases involving defendants who traveled or attempted to travel overseas to join ISIS or other terrorist organizations have generally resulted in far more significant sentences than petitioner received here. See Pet. App. 46a-48a (discussing United States v. Naji, No. 16-653 (E.D.N.Y. June 27, 2019) (defendant sentenced to 20 years of imprisonment after pleading guilty to traveling to Yemen to join ISIS; although not convicted of obstructing justice, defendant attempted to conceal his activities); and United States v. Saidakhmetov, No. 15-cr-95, 2018 WL 461516 (E.D.N.Y. Jan. 18, 2018) (defendant sentenced to 15 years of imprisonment after pleading guilty to traveling to Turkey to join ISIS)). Further review is not warranted.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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