

FEB 23 2022

OFFICE OF THE CLERK

No. 21-7340

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH LOUIS HALL — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOSEPH LOUIS HALL #89826-083
(Your Name)

P.O. Box 1000
(Address)

CUMBERLAND, MD. 21501
(City, State, Zip Code)

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ORIGINAL

QUESTION(S) PRESENTED

1. WHETHER A DISTRICT COURT CAN RELY SOLELY ON A DEFENDANT'S ORIGINAL SENTENCING FACTORS SET FORTH IN 18 U.S.C. 3553 (a) AND WHETHER A DEFENDANT'S POST-CONVICTION RECORD MUST BE CONSIDERED AS A FACTOR WHEN DENYING A DEFENDANT'S COMPASSIONATE RELEASE MOTION?
2. WHETHER THE DISTRICT COURT OR THE FEDERAL BUREAU OF PRISONS HAS THE AUTHORITY TO DETERMINE DANGER TO THE COMMUNITY PURSUANT TO 18 U.S.C. 3553 (a) AND 18 U.S.C. 3142 (g) AND SHOULD IT BE USED AS AN STANDALONE FACTOR IN DENYING A DEFENDANT'S COMPASSIONATE RELEASE MOTION?

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:

RELATED CASES

UNITED STATES V. JOSEPH LOUIS HALL, NO. 3:16-cr-28, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION

UNITED STATES V. JOSEPH LOUIS HALL, NO. 21-7174, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, MANDATE FILED FEBRUARY 16, 2022

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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.

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; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B 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☒ is unpublished.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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JANUARY 25, 2022.

☒ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THIS CASE INVOLVES THE SENTENCING FACTORS SET FORTH IN 18 U.S.C. 3553 (a),
IN RELEVANT PART "TO THE EXTENT THAT THEY ARE APPLICABLE" AND THE
DANGER TO THE COMMUNITY WHICH INVOLVES 18 U.S.C. 3142 (g) "AND THE
SAFETY OF ANY OTHER PERSON AND THE COMMUNITY". DOES A COURT OR THE
BUREAU OF PRISONS HAVE THE AUTHORITY TO DETERMINE THIS?

STATEMENT OF THE CASE

ON SEPTEMBER 24, 2020, HALL PETITIONED THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION FOR COMPASSIONATE RELEASE / REDUCTION IN SENTENCE. IN HIS PETITION HE INFORMED THE COURT THAT HE SUFFERS FROM OBESITY, DIABETES, HYPERTENSION, SICKLE CELL AND SLEEP APNEA. HALL IS 56 YEARS OLD. AFTER THIS INITIAL PRO SE MOTION, THE DISTRICT COURT APPOINTED COUNSEL ON OCTOBER 19, 2020 TO REPRESENT HALL. ON JANUARY 21, 2021, HALL'S COUNSEL FILED AN COMPASSIONATE RELEASE MOTION BEFORE THE DISTRICT COURT. THIS MOTION WAS ULTIMELY DENIED BY THE DISTRICT COURT. THE COURT CITED THAT HALL IS STILL A DANGER TO THE COMMUNITY. HALL THEN IMMEDIATELY FILED AN NOTICE OF APPEAL WITH THE FOURTH CIRCUIT.

ON JANUARY 25, 2022, THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT'S DECISION. ON FEBRUARY 16, 2022, THE FOURTH CIRCUIT ISSUED AN MANDATE GIVING JURISDICTION BACK TO THE DISTRICT COURT. HALL DID NOT FILE A PETITION FOR A REHEARING.

HALL IS CURRENTLY 56 YEARS OLD, HE IS SERVING A 15 YEAR SENTENCE FOR DISTRIBUTION OF COCAINE BASE IN VIOLATION OF 21 U.S.C. 841 (b)(1)(C). THIS IS A NON-VIOLENT DRUG OFFENSE CRIME. HE HAS SERVED APPROXIMATELY 5 YEARS OF HIS SENTENCE. HE IS CURRENTLY HOUSED AT FCI CUMBERLAND IN MARYLAND. HALL'S MEDICAL CONDITIONS ARE OBESITY, DIABETES, HYPERTENSION, SICKLE CELL AND SLEEP APNEA - HE IS 5'6, 225 LBS. HIS BMI IS OVER 35. ACCORDING TO THE CDC, THESE MEDICAL CONDITIONS FALL WITHIN THE CDC'S GUIDELINES AS HIGH RISK FOR REINFECTION. HALL ALREADY MEETS THE THRESHOLD TEST OF MEDICAL CONDITIONS IN NOTE 1(A).

¹
SEE APPENDIX B, THE DISTRICT COURT'S MEMORANDUM AT FOOTNOTE 1.

²
CDC.GOV / COVID19

THE DISTRICT COURT DENIED HALL'S MOTION BASED ON THE FACTORS SET FORTH IN 18 U.S.C. 3553 (a). THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT'S DECISION. HOWEVER, THE COURT'S DECISION CONTRADICTS HALL'S PROGRESS REPORT THAT WAS ISSUED BY THE FEDERAL BUREAU OF PRISONS CASE MANAGER THAT IS ASSIGNED TO HALL. THE CASE MANAGER STATES THAT HALL IS 1) PROGRAMING 2) CURRENTLY EMPLOYED AT UNICOR, WHERE HE IS RECEIVING GOOD WORK EVALUATIONS 3) COMPLETED DIFFERENT EDUCATIONAL PROGRAMS 4) MAINTAINED CLEAR CONDUCT SINCE HIS INCARCERATION 5) NOT CONSIDERED TO BE A MANAGEMENT CONCERN 6) PSYCHOLOGY HAS NO CONCERNS 7) FINES ARE BEING PAID 8) HE HAS BEEN WORKING ON LOWERING HIS RECIDIVISM EVEN BEFORE THE FIRST STEP ACT OF 2018 WAS ENACTED INTO LAW.

UNDER THE FIRST STEP ACT OF 2018 REQUIRES A PHASE-IN OF THE RISK RECIDIVISM PROGRAM PURSUANT TO 18 U.S.C. 3621 (h)(2). UNDER THIS STATUTE, IT WOULD BE IMPLEMENTED GRADUALLY SO THAT EVERY PRISONER HAS THE OPPORTUNITY TO PARTICIPATE IN AND COMPLETE THE TYPE AND AMOUNT OF EVIDENCE-BASED RECIDIVISM REDUCTION PROGRAMS OR PRODUCTIVE ACTIVITIES THEY NEED. AFTER TWO GOOD UNIS FORM REVIEWS, HALL CAN DROP HIS MEDIUM RECIDIVISM TO A LOW.

POSITIVELY AND PRODUCTIVELY REHABILITATION IN ASSESSING DETERRENCE, PROTECTION OF THE PUBLIC AND REHABILITATION. THERE WOULD SEEM TO BE NO BETTER EVIDENCE THAN A DEFENDANT'S POST-INCARCERATION CONDUCT. ³ WHATEVER A DEFENDANT IS A DANGER TO THE COMMUNITY IS NO LONGER A STANDALONE FACTOR.

THE FACT A DEFENDANT, IF SENTENCED TODAY, WOULD RECEIVE A ORIGINALLY LOWER SENTENCE FOR THE SAME CONDUCT HAS BEEN FOUND BY SEVERAL COURTS TO CONSTITUTE EXTRAORDINARY AND COMPELLING CIRCUMSTANCES JUSTIFYING SENTENCE REDUCTION UNDER ⁴ 18 U.S.C. 3582 (c)(1)(A).

³
PEPPER V. UNITED STATES, 562 U.S. 476, 491 (2011)

⁴
UNITED STATES V. JOHNSON, 2020 WL 6063733, *5 (DIST. MD. OCT. 14, 2020)

INDIVIDUALS HOUSED IN PRISONS REMAIN PARTICULARLY VULNERABLE TO INFECTION. SEE UNITED STATES V. MUNIZ, 2020 WL 1540325, *1; SEE ALSO UNITED STATES V. ESPARZA, 2020 WL 1696084, *1. EVEN THE BEST RUN PRISONS MIGHT FIND IT DIFFICULT OR IMPOSSIBLE TO FOLLOW CDC GUIDELINES FOR PREVENTING THE SPREAD OF THE VIRUS AMONG INMATES AND STAFF.

HALL DOES NOT DISPUTE THE SERIOUSNESS OF THIS INSTANT OFFENSE. CONTINUED INCARCERATION IS NOT NECESSARY TO PROTECT THE PUBLIC FROM A NON-VIOLENT OFFENDER. THIS IS EVIDENT BASED ON HIS WILLINGNESS TO ENGAGE IN PROGRAMS WHILE INCARCERATED.

AGE EXERCISED A STRONG INFLUENCE ON RECIDIVISM ACROSS ALL SENTENCING LENGTH CATEGORIES. OLDER OFFENDERS WERE LESS LIKELY TO RECIDIVATE AFTER RELEASE THAN YOUNGER OFFENDERS WHO HAVE SERVED SIMILAR SENTENCES, REGARDLESS OF THE LENGTH OF THE ORIGINAL SENTENCE.⁵

HALL MAINTAINED CLEAR CONDUCT SINCE BEING INCARCERATED, HAS PROGRAMMED, FOR THE LAST 5 YEARS HE HAS WORKED FOR UNICOR. HIS REMARKABLE RECORD OF REHABILITATION MUST ADD TO THE DETERMINATION THAT PRESENTS EVIDENCE OF A PERSON WHO IS LESS LIKELY TO COMMIT CRIMINAL ACTIVITY, IF RELEASED OR RESENTENCED. HALL HAS A COMPREHENSIVE REENTRY PLAN IN PLACE THAT INCLUDES SUPPORT FROM HIS CHILDREN AND FAMILY MEMBERS. HE PLANS ON UTILIZING⁶ EMPLOYMENT SKILLS IN WHICH HE HAS LEARNED BY WORKING IN UNICOR.

⁵
U.S.S.C.'S REPORT ON THE EFFECTS OF AGING ON RECIDIVISM AMONG FEDERAL OFFENDERS (2017)
⁶
UNITED STATES V. MCCOY, NO. 20-5047 (2021, 10TH CIR.)

RESPECTFULLY SUBMITTED,

Joseph Louis Hall

JOSEPH LOUIS HALL, #89826-083

FEBRUARY 22, 2022

REASONS FOR GRANTING THE PETITION

U.S.S. G. 181.13, 18 U.S.C. 3142 (g) AND 18 U.S.C. 3553 (a) ALL ASK A COURT TO DETERMINE IF AN DEFENDANT IS A DANGER TO THE COMMUNITY OR NOT. A COURT CANNOT FAIRLY DETERMINE THIS WITHOUT INVESTIGATING A DEFENDANT'S POST-CONVICTION RECORD AND A COURT CANNOT DETERMINE AN DEFENDANT A DANGER TO THE COMMUNITY UNDER ONE STATUTE AND NOT THE OTHER ONE. FOR EXAMPLE, AS IN HALL'S CASE. THE DISTRICT COURT DETERMINED THAT HALL IS A DANGER TO THE COMMUNITY. HOWEVER, HALL'S CASE MANAGER ISSUED HIS PROGRESS REPORTS STATING THAT HALL IS 1) PROGRAMING 2) CURRENTLY EMPLOYED AT UNICOR, WHERE HE RECEIVES GOOD WORK EVALUATIONS 3) COMPLETED DIFFERENT EDUCATIONAL PROGRAMS 4) MAINTAINED CLEAR CONDUCT SINCE HIS INCARCERATION 5) HE IS NOT CONSIDERED TO BE A MANAGEMENT CONCERN 6) PSYCHOLOGY HAS NO CONCERNS 7) FINES ARE BEING PAID AND 8) HE HAS BEEN WORKING ON LOWERING HIS RECIDIVISM, EVEN BEFORE THE FIRST STEP ACT OF 2018 WAS ENACTED INTO LAW. THIS CONTRADICTS THE DISTRICT COURT'S REASONING ON HOW THE COURT CONCLUDED HALL BEING A DANGER TO THE COMMUNITY. THIS CLEARLY SHOWS THAT HALL IS NO LONGER A DANGER TO THE COMMUNITY OR ANYONE ELSE.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Joseph Louis Hall

Date: February 22, 2022