

No.

ORIGINAL

(Phone Number)

QUESTION(S) PRESENTED

1. Did the Courts Abuse it's Discretion After Denying Mr. Smith Compassionate Release Under 181.13 After Court concluded Defendant satisfied the Extraordinary and compelling Reasons for said motion?
2. Did the Courts Err in using Erroneous statements in determining the 3553(a) Factors?
3. Did the District Court and Prosecutor violate Due Process by not sending Defendant the Order & Response for Defendant to reply to?

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

U.S. v Shkambi (No. 20-40543) (5th Cir. 2021)
U.S. v Bozon Pappa (95-00084) Southern District of Florida (2021)
U.S. v Hatcher (SDNY) (2021 WL 1535310, 18 cr. 454-10KPF)
U.S. v Long (No. 20-3064) (D.C. Circuit May 18, 2021)

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STATUTES AND RULES

Rule 1B1.13

18 U.S.C. 3553(A)

OTHER

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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 11-30-21.

☐ 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: 12-28-21 Decided, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

Abuse of Discretion and 5th Amendment of United States Constitution Due Process violation.

STATEMENT OF THE CASE

THE GOVERNMENT NOR DISTRICT COURT OF THE COLUMBIA DIVISION SEND PRO SE PETITIONER ERIC DEAN SMITH AN COPY OF DENIED COMPASSIONATE RELEASE MOTION TO ANSWER TO REFUTE AGAINST, ERRONEOUS STATEMENTS BY GOVERNMENT ON SMITH'S CRIMINAL HISTORY PRIOR TO CURRENT OFFENSE.

PRO SE SMITH WORSENING DEBILITATED HEALTH CONDITIONS AND REPEATED COVID-19 OUTBREAKS THAT CONTINUE IN THE BOP PRISON.

REASONS FOR GRANTING THE PETITION

HERE COMES PRO SE PETITIONER ERIC DEAN SMITH ON WRIT FOR THE REASON OF GRANTING SAID COMPASSIONATE RELEASE 3582(C)(1)(A) MOTION. I SUFFER FROM HYPERTENSION, HYPERLIPIDEMIA, CORONARY ARTERY DISEASE, OBESITY AS WELL AS MY HEART BEING IN ACTIVE ATRIAL FIBRILLATION. MY OLFACTORY SYSTEM IS SUFFERING FROM LOSS OF TASTE AND SMELL AT TIMES TO WHERE MEDICAL HAS SAID OUTSIDE PERMANENT CARE IS NEEDED FOR FURTHER TESTING FOR BRAIN DAMAGE DUE TO CATCHING COVID-19 HERE IN PRISON. ALSO AS TO HAVING TO WRITE THINGS DOWN AT TIMES AS TO NOT FORGET WHICH HAS BEEN FREQUENT SINCE CATCHING COVID. SWELLING OF LEGS AND SHORTNESS OF BREATH, AND NUMBNESS IN FINGERS HAS GOTTEN WORSE TO NOW I HAVE BEEN PUT ON PERMANENT LOWER BUNK PASS THROUGHOUT BOP PER MEDICAL AND ALL HAS GOTTEN WORSE SINCE CATCHING COVID. MY IMMUNE SYSTEM IS SUSCEPTIBLE TO DISEASE/VIRUSES SINCE MY DAILY INTAKE OF ELIQUIS AND IN CONSTANT AFIB WHICH HAS BEEN CONFIRMED BY MEDICAL STAFF AND OUTSIDE TRIAGE VISITS. THE BOP DIRECTOR CARVAJAL STATED IN FRONT OF THE SENATE JUDICIARY COMMITTEE THAT "PRISONS WERE NOT MADE FOR SOCIAL DISTANCING BUT RATHER THE OPPOSITE. COVID IS THE 3RD LEADING CAUSE OF DEATH IN THE COUNTRY. CANCER IS 2ND AND HEART DISEASE IS NUMBER 1. THE DENIAL OF MY COMPASSIONATE RELEASE BY WAY OF THE 3553(A) FACTORS FOR ANY AND ALL PURPOSES HAS BEEN THE SAME AS CONVERTING SMITH'S SENTENCE TO AN DEATH SENTENCE AS TO MY HEALTH IS DETERIORATING AS TO BEING SUSCEPTIBLE TO ANY NEW STRAIN OR OLD OF COVID-19. THE GOVERNMENT CLEARLY VIOLATED MY 5TH AMENDMENT OF THE UNITED STATES CONSTITUTION BY WAY OF DUE PROCESS. ALSO WITH ABUSE OF DISCRETION FOR ERRONEOUS STATEMENTS OF CRIMINAL HISTORY AND USING JUVENILE RECORDS OF CONDUCT FROM THE STATE WHICH OCCURRED OVER 31 YRS AGO, AND ALSO OTHER PRIORS THAT WERE 24 AND 17 YRS AGO. ALL CRIMES ARE SERIOUS AS I STATED TO THE COURTS AT SENTENCING TAKING FULL RESPONSIBILITY FOR MY CRIMINAL ACTIONS. AS MY RECIDIVISM AT MY AGE IS LOW AND 10 YRS BEFORE MY CURRENT OFFENSE

I had NO RUN INS WITH THE LAW AND KEPT WORK OF BEING ^②
EMPLOYED. AS TO MY PLEA AGREEMENT OF 1 PRIOR TO BE USED FOR AN 20 TO LIFE
MANDATORY MINIMUM PLEA AS STATED ON PG. 1 OF DENIED ORDER FROM DISTRICT COURT
PG. 6 CLEARLY STATES THAT I WAS UNDER AN CRIMINAL JUSTICE SENTENCE FOR SEVERAL
DRUG & FIRE ARMS OFFENSES WHEN I COMMITTED THE INSTANT OFFENSE I AM IN
FEDERAL CUSTODY FOR NOW. ITS AN FIBULOUS STATEMENT AS TO PG 5 CLEARLY STATES
MY LAST OFFENSE WAS NOV. 2004 THAT I RECEIVED 5 YRS PROBATION AND 200 H.
COMMUNITY SERVICE FOR AND CLEARLY FINISHED PROBATION OCTOBER 2009, WHICH
IS THE 1 PRIOR THE GOVERNMENT USED AS MY PLEA AGREEMENT. DEFENDANT WAS
17 YRS OF AGE, AND AT SENTENCING IN MARCH OF 1992 WAS 18 YRS OF AGE
AS GOVERNMENT COUNTED JUVENILE CONVICTIONS AGAINST DEFENDANT BACK
IN 2015 AT SENTENCING AS THEY ARE NOW WITH THE 3553(A) FACTORS FOR
MY RELEASE. DEFENDANT SATISFIED THE COURTS WITH EXTRAORDINARY AND
COMPELLING REASON, WITH FACTUAL RECORDS FROM MEDICAL STAFF IN PRISON AND
OUTSIDE TRIAGE AND DR. VISITS FROM HEALTH COMPLICATIONS THAT KEEP SAID
DEFENDANT AT HIGH RISK. DEFENDANTS BODY CANNOT DEFEND ITSELF BECAUSE
OF LOW IMMUNE SYSTEM, HAS TAKEN COVID SHOT, PNEUMONIA SHOT YET MY
HIGH RISK HEALTH CONDITIONS KEEP ME AT SERIOUS PHYSICAL HEALTH AS SHOWN
DEFENDANT FURTHER NOTES THAT THE GOVERNMENT VIOLATED MY 5TH AMENDMENT
(DUE PROCESS) KNOWING DEFENDANT WOULD SEE ERRONEOUS STATEMENTS AND
REFUTE AGAINST THEM WITH CLARITY FOR THE RECORD AS TO APPEALS COURT ONLY
RECEIVED AN ONE SIDED ARGUMENT. ALSO ON PG. 6 OF GOVERNMENTS DENIAL OF THE
3553(A) FACTOR IT STATES 6 DISCIPLINARY INFRACTIONS WHILE INCARCERATED AS TO I
HAVE HAD ONLY 4 MAJOR INFRACTIONS IN 7 YRS AND 1 IN THE LAST 3 1/2. I HAVE
GOTTEN MY GED SINCE INCARCERATED, EDUCATION CLASSES, DRUG CLASSES, FRP
PAYMENT PLAN, PSYCHOLOGY CLASSES, AND FSA CLASSES. ALSO BEING THAT
I HAVEN'T HAD ANY INCIDENT INFRACTIONS I AM NOW IN A LESSER SECURITY
PRISON AND MY PUBLIC SAFETY FACTOR WAS TAKEN OFF BECAUSE OF ALMOST
50% OF MY SENTENCE HAS BEEN SERVED WITH LESS THAN 9 YRS LEFT TO
SERVE FOR SATISFACTORY OF RELEASE FROM PRISON. THE PRISON I AM NOW
AT HAS JUST HAD AN OUTBREAK HERE WHERE OVER HALF THE POPULATION OF
900+ INMATES TESTED POSITIVE FOR COVID IN JAN. AND LAST MONTH FEB.
OF 2022. CONSTANT LOCKDOWNS HAVE ALSO CONTRIBUTED TO MY HEALTH WITH

the constant stress that comes with being confined in an cell unable to exercise or walk which mentally and emotionally affects the mind and body. Also on Pg 6 of the Governments Denial for various conduct it has refusing work and destroying property which are minor infractions and were bought about from my Protective Custody status when I was sent to USP Coleman 1 in Florida back in Nov. 2018. If the Government had did inquiries as they do on everything else of my Compassionate Release it would have been made clear that SIS put me on Protective Custody After they saw that I had cooperated with the Government and an attempt was made on my life by way of an fellow inmate trying to stab me and we got into an fight. Protective Custody is in my record as to being sent to an Prison Program called the RU which is at USP Thomson and I just completed the 18 month program and was sent to an Medium Custody Facility. Prosecutor Ms. Jane Taylor was sent repeated letters about my Health, the stabbing incident, threats against my family to where they got into an fight because of my cooperation and emails from my wife stating the incidents that were going on at that time and not once received an reply back from Prosecutor Ms. Taylor about my cooperation. So SIS had to read my Court Transcripts and my going back to Court in May 2019 to verify my cooperation after the attempt on my life. As to I helped with 6 defendants and only was given credit for 2, which was Christopher Brown and Stacey George as can be seen

by way of Attorney Client Correspondence. So my Denial by way of the 3553 (A) factors should be weighed again now that the 2nd side of facts have been shown to the Courts and the Government. Erroneous conclusions of abuse of discretion and Due Process show that I am not the same child that I was 31 yrs ago in 1991, nor the same person of 1998 at 25yr of age, nor the same person from almost 8 yrs ago. My Health was and has been the reason for my Compassionate Release Motion and as said by the Government themselves that I satisfy the reason standard for my said Motion. I never asked for me conditions to come about nor do I like the tons of medication I have to take on an daily basis to stay alive. And as all criminal offenses are serious and my History is just what it says "History" I can't change what has happened in my past, but I can change my future for the better with an chance to be able to have access to an Primary Care Doctor and social distance myself when needed as to Covid-19 is an Virus thats here to stay. And even upon my release date of April 2031 my past Criminal History will still be an part of my Record and I ask the Question: Will the Government Deny my Release Date then for the 3553 (A) factors as they are now and that's if Im still living?

Respectfully submitted
Eric Smith #27689171
Eric Smith

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eric Smith #27689171

Date: MARCH 15, 2022