

21-7921
No. _____

ORIGINAL

Supreme Court, U.S.
FILED

MAY 13 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JESUS WIRICHAGA -
LANDAVZO — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court Tenth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JESUS WIRICHAGA - LANDAVZO
(Your Name)

P.O. Box 1009
(Address)

Welch, W.V. 24801
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

When the appeals courts identified that the (C.D.C.) recognized that Tuberculosis elevates (covid-19) risk to individual at their appeal stage and establish extraordinary circumstances, Should the appeals courts had applied their intervening Change of law and remanded the case back to the District court?

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

2:14-CR-00511-TS

21-4070

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States v BROOKER, 976 F.3d 228 (AND CIR 2020) - - -	5
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United States v TRENT, 884 F.3d 985 (10th Cir 2018) - - - -	5

STATUTES AND RULES

18 U.S.C. 3582(c)(1)(A)

OTHER First Step Act of 2018, 164 Cong. Rec. 57444

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 is unpublished.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 is unpublished.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 is unpublished.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 February 10, 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

N/A

STATEMENT OF THE CASE

In March 2021, Petitioner pre-maturely presented a motion pursuant to 18 U.S.C. 3502(c)(1)(A), arguing that the (C.D.C.) recognized that Tuberculosis presented extraordinary and compelling reasons that elevated his risk to becoming severely ill or succumbing to (Covid-19). While the Court of Appeals was considering the issue, the (C.D.C.) recognized that Tuberculosis was a pre-existing health condition that could render an individual severely ill or succumbing to (Covid-19), and failed to remand the issue back to the Court on it's circuit precedent intervening change of law doctrine.

REASONS FOR GRANTING THE PETITION

As a preliminary matter, a bipartisan coalition in Congress sought to boost grants of compassionate release by reforming 18 U.S.C. 3582(c)(1)(A)'s procedures in the First Step Act of 2018. See, 164 Cong. Rec. S7774 (daily ed. Dec. 18, 2018) (Statement of Sen. B. Cardin). See, United States v. Brooker, 916 F.3d 228 (1st Cir. 2020) (establishing the facts above).

The bill expands compassionate release under the Second Chance Act and "EXPEDITES" compassionate release applications (emphasis added); "Statement of Rep. Jerry Nadler, 164 Cong. Rec. H1-0362 (daily ed. Dec. 20, 2018). See, United States v. Junks, 980 F.3d 1098 (6th Cir. 2020).

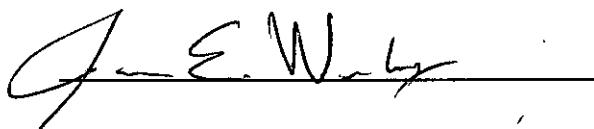
With the above principle of Congress intending for compassionate release motions to be acted on in an expedited manner. When the (C.B.C.) added tuberculosis on its list while the tenth circuit court of appeals was reviewing the case, the court of appeals was required to remand the case back to the district court on its intervening change of law, to honor Congress intent to expedite compassionate release motion. See, United States v. Trent, 884 F.3d 985 (10th Cir. 2018) (holding that an intervening change in law allows reconsideration of a previous decision in the same case, only to the extent the change affects the previous decision).

Pursuant to Supreme Court Rule 10. This Supreme Court shall grant certiorari pursuant to Supreme Court Rule 10(a), as the court of appeals has decided an important question in a way that conflicts with a decision by their own circuit precedent intervening case law, that required them to remand the case back before the district court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. E. W. L.", is written over a horizontal line.

Date: 05-12-22