NO. 21-7975

IN THE SUPREME COURT OF THE UNITED STATES

AMIR KARIM BEIGALI, PETITIONER

VS.

UNITED STATES OF AMERICA

ORIGINAL

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

BRIEF FOR THE PETITIONER AMIR KARIM BEIGALI

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QUESTION PRESENTED

DOES THE FIFTH AND SIXTH AMENDMENT UNDER THE U.S. CONSTITUTION PROHIBIT SECOND OR SUBSEQUENTLY SECTION 924 (c) (1) (C)(i) AND ITS CONSECUTIVE MANDATORY PENALTY, WHEN THE SECOND 924 (c) OFFENSE WAS BASED UPON FIRST 924's CONVICTION THAT WAS NOT FINAL YET BECAUSE PETITIONER'S WAS STILL SERVING SUPERVISED RELEASE TERM IMPOSED AS CONDITION OF THE FIRST CONVICTION AS ANNOUNCED IN U.S. SUPREME COURT PRECEDENTS SUCH AS JOHNSON V. UNITED STATES, 529 U.S. 694 (2000) AND UNITED STATES V. HAYMOND, 139 S.Ct. 2369 (2019)

Today, this Court's held that: We merely acknowledge that an accused's final sentence include any supervised release sentence he may receive. Nor in saying that do we say anything new: This Court has already recognized that supervised release punishments arise from and are "treated as part of the penalty for the initial offense." Johnson v. United States, 529 U.S. 700, 120 S.Ct. 1795, 146 L.Ed.2d 727 (2000). The defendant receives a term of supervised release thanks to his initial offense, and whether that release is later revoked or sustained, it constitutes a part of the final sentence for his crime. Haymond, 139 S.Ct. at 2379-80.

Here, Petitioner's is serving additional 25-year term of imprisonment that Federal law or U.S.Constitution does not authorize and as result(ed) 18 U.S.C.§3582(c)(1)(A)(i) provide him statutory remedy to correct this plain error of miscarriage of justice, as "extraordinary and compelling reasons.

ADDITIONAL RELATED PROCEEDINGS

United States v. Beigali, 405 F.App'x 7 (6th Cir.2010)(per curiam)

United States v. Beigali, U.S.District Court for the Middle District of Florida - Orlando Division, Case Number 6:97-CR-43-ORL-18KRS, dated November 16,2009

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App., at 1-6 is not published in the Federal Reporter as I am aware of. The opinion of the district court is unreported.

JURISDICTION

The judgment of the court of appeals was entered on March 9,2022. The mandate was entered on April 1,2022. The petition for a writ of certiorari was filed on this 9th day of April, 2022. While this Court has the jurisdiction

of this Court is invoked under 28 U.S.C.§1254(1).

STATEMENT

In 2005, Beigali arranged to buy cocaine from a confidential informant in the Eastern District of Michigan. Despite[s] fact that Beigali did not have any money to buy the cocaine he was offered to trade firearm as collateral for drugs. A federal jury convicted Beigali of attempted possession of five or more kilograms of cccaine with intent to distribute, in violation of 21 U.S.C. §846, and one count of possessing a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C.§924(c)(1)(A). At the time of his conviction on those counts, Beigali was on supervised release in the Middle District of Florida following unrelated conviction for bank robbery, in violation of 18 U.S.C.§2113(a), and possessing a firearm during a crime of violence, in violation of 18 U.S.C.§924(c)(1)(A). Accordingly, the district court sentenced Begigali to the mandatory minimum term of 120 months of imprisonment on the §846 conviction, and because this was Beigali's second §924(c) conviction, district court's imposed the mandatory consecutive sentence of 25 years of imprisonment on the firearms conviction. See 18 U.S.C.§924(c)(1)(C)(i), for a total sentence of 420 months of imprisonment. The Sixth Circuit affirmed. See United States v. Beigali, 405 F.App'x 7 (6th Cir.2010)(per curiam).

In April 2021, Beigali moved the district court for compassionate release under §3582(c)(1)(A), on grounds that (1) his youth at the time he committed the offenses, his post-sentencing rehabilitation, his "good character", in combination that district court's lacked the authority to sentence under §924(c)(1)(C)'s "stacking" provision because his first §924(c) conviction

in the Middle District of Florida bank robbery case was not final. Because Beigali was on supervised release in Florida on his prior §924(c) conviction, he was still serving his sentence on the prior §924(c) conviction when he was convicted in the Michigan case. Otherwise, the 25-year consecutive sentence he received in Michigan case would not apply to him under the original §924's statute, and under the First Step Act, and instead he would have only received a mandatory consecutive sentence of five years of imprisonment. Further, Beigali argued that the 18 U.S.C.§3553(a) sentencing factors supported his motion in view of his maturity, rehabilitation, and reentry plan, which included living with the mother of his child and working at a car wash or as a painter.

INTRODUCTION

Our criminal justice system evolves in response to changes in how we, as a society, perceive criminal acts and the appropriate penalties for them. Like the system, the individuals penalized also can evolve and mature. The importance of giving those individuals meaningful second chances cannot be overstated.

Take Tarra Simmons. Drug and alcohol abuse led to her imprisonment on narcotics charges. After her release, she graduated from law school, became a civil rights attorney, and, in 2020, was elected to the Washington state legislature. Or John Gargano, who went from serving a 30-year sentence as a first-time non-violent drug offender to graduating from New York University's School of Professional Studies with a scholarship. He recently became general manager of a fine dining restaurant in New York City. See Alex Traub, How a Former Drug Dealer Charts a Path for New York's Renewal, N.Y.Times, May 20, 2021, https://perma.cc/NJZ6-JZ2.5. Or Marcus Bullock, who at age 15 was convicted as an adult for armed carjacking. On his release, he rose to become owner of his own contracting business and started Flikshop, a business to facilitate family communication with incarcerated loved ones and prevent recidivism. See Trung T. Phan, He was facing life in prison. Now, he's the CEO of the 'Instagram for the Incarcerated', The Hustle, Jan.30,2021, https://perma.cc/GUS8-9YB-G. Flikshop recently received a $250,000 grant from Boeing to expand its workforce development offerings for those released from prison. See Michaels Althouse, With support from Boeing, Flikshop's Marcus Bullock is helping returning citizens find work in the gig economy, Technical.ly, June 7,2021, https://perma.cc/W9AY.EBY2. "Compassionate release" and other second-look mechanisms give courts the opportunity to consider, sometimes long after sentencing, whether defendants deserve the opportunity to re-enter society and become

valued members of their communities like Ms.Simmons, Mr.Gargano, and Mr.Bullock.

The issue presented by the petition is not whether petitioner or any other individual should or will be released. Instead, it is only whether judges may consider individuals like petitioner for a sentence reduction. In every case, a district judge must determine that the individual presents extraordinary and compelling circumstances and that, in light of the factors outlined under 18 U.S.C.§3553(a), a sentence reduction is "warranted". 18 U.S.C.§3582(c)(1)(A)(i). That judgment is subject to appellate review for abuse of discretion. There is thus no reason to worry that reversing the Sixth Circuit would open the jailhouse doors. But there is every reason to worry that the Sixth Circuit's idiosyncratic rule will keep individuals behind bars unnecessarily, at great cost to their families, their communities, and society. This brief illustrates those harms.

SUMMARY OF ARGUMENT

This case presents the urgent issue of defendant's eligibility for reduction in sentence (colloquially known as "compassionate release") following the changes to §3582(c)(1)(A) by the First Step Act of 2018 ("FSA"). The Sixth Circuit is in completely dismay because its depend on what panel certain defendants' is assign(ed) or given in order whether that particular defendants' is granted 'compassionate release'. See United States v. Jones, 980 F.3d 1098 (6th Cir.2020), United States v. Owens, 966 F.3d 755 (6th Cir. 2021), and United States McCall, 20 F.4th 1108 (6th Cir.2021). Now see Jarvis v. United States, 999 F.3d 442 (6th Cir.2020, cert.denied,---S.Ct.-----, No. 21-568, 2022 WL 89314 (U.S. Jan. 10,2022), the district court concluded that it could not consider the First Step Act's elimination of §924(c)(1)(C)'s stacking provision in determining whether Beigali had demonstrated

"extraordinary and compelling" reasons for compassionate release. Otherwise, there is not any consistent among Sixth Circuit Court of Appeals, some defendants is granted compassionate release while other defendants is being denied. The Second, Fourth, Fifth, Sixth (e.g. depends on which panel defendants' is given), Seventh, Ninth, Tenth, and D.C. Circuits disagree. They have held that district courts are free to exercise discretion to grant compassionate release to defendants for any "extraordinary and compelling" reason, so long as the reduction is "warranted" after reconsideration of the §3553(a) factors.

Granting certiorari in this case is crucial to promote within Sixth Circuit' uniformity in this important aspect of federal sentencing. See S. Ct. R. 10(a). Since the FSA expanded compassionate release, courts nationwide have granted thousands of reductions. U.S. Sentencing Commission Compassionate Release Data Report, Calendar Year 2020 (June 2021). This brief tells the stories of worthy individuals who would be ineligible for compassionate release under decision below and highlights the widespread injustice of its approach, which is a compelling reason for this Court to resolve the Sixth Circuit inconsistent ruling amongs its own panels on a recurring and important issue.

ARGUMENT

I. BACKGROUND

A. The History Of Compassionate Release

In 1984, as part of the Sentencing Reform Act, Congress did away with parole and strictly limited the ability of courts to revisit finalized sentences. One exception was a process known as compassionate release. Compassionate release allows a court to reduce a sentence, after reconsidering the §3553(a) factors, if it finds that (1) "extraordinary and compelling

reasons warrant such a reduction," and (2) "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. §3582(c)(1)(A)(i). Section 3582(c)(1)(A) does not define "extraordinary and compelling reasons" for release. A separate statute directs the Commission to "describe" those reasons. 28 U.S.C.§994(t).

Originally courts could consider only compassionate release motions filed by the Bureau of Prisons ("BOP"). But BOP "used that power so "sparingly" that "an average of only 24 imprisoned persons were released each year by BOP motion." United States v. McCoy, 981 F.3d 271, 276 (4th Cir.2020). In 2018, frustrated with BOP's obstinance, Congress passed and the President signed the First Step Act, which removed BOP as the gatekeeper. The FSA empowered federal defendants to bring (and courts to consider) compassionate release motions on their own bahalf. See Pub.L.No.115-391, §603(b), 132 Stat. 5194, 5239.

B. The Commission's Policy Statement

> For 20 years, the Commission failed to promulgate any guidance under §994(t). In 2007, well before the PSA's passage, the Commission issued the original Statement. It parroted the pre-FSA requirements of the compassionate release statute, among them that BOP file the motion. See U.S.S.G., Amends. 683 (2006), 698 (2007).
>
> As later amended, the Statement included several application notes (revised three times between 2010 and 2018). See U.S.S.G. §1B1.13 (p.s.). One such note sets out a limited set of suggested "extraordinary and compelling" reason for release: (A) the medical condition of the defendant, (B) the age of the defendant, (C) the defendant's family circumstances (all further limited in sub-parts), and (D) "other reasons" "as determined by the Director of the Bureau of Prisons." U.S.S.G.§1B1.13,n.1.
>
> Another application note, promulgated in 2016, explains that a "reduction under this policy statement may be granted only upon motion by the Director of the Bureau of Prisons." U.S.S.G. §1B1.13,n.4. It also encourages "the Director to file more compassionate release motions, (because) 'the court is in a unique position to determine whether the circumstances warrant

a reduction.'" United States v. Brooker, 976 F.3d 228, 237 (2d Cir.2020)(quoting U.S.S.G.§1B1.13, n.4). The first words of the Statement itself are "Upon motion of the Director of the Bureau of Prisons." The Commission has been unable to amend the Statement to account for defendant-filed motions since the passage of the FSA because it lacks a voting quorum. See United States v. Long, 997 F.3d 342, 348 (D.C.Cir.2021).

II. THE SIXTH CIRCUIT ARE DIVIDED AMONG THERE PANELS ON WHETHER THE STATEMENT IS "APPLICABLE" TO DEFENDANT FILED MOTIONS

A. Eight Circuits Have Concluded That The Statement Is Not "Applicable"

Eighth courts of appeals have held that the Statement is not "applicable" to defendant-filed motions for compassionate release. See Brooker, 976 F.3d at 235 (2d Cir.); McCoy, 981 F.3d at 282 (4th Cir.); United States v. Shkambi, 993 F.3d 388, 392-39· (5th Cir.2021); United States v. Jones, 980 F.3d 1098, 1109-1111 (6th Cir.2020); United States v. Gunn, 980 F.3d 1178, 1180-1181 (7th Cir.2021)(per curiam); United States v. Aruda, 993 F.3d 797, 802 (9th Cir.2021)(per curiam); United States v. McGee, 992 F.3d 1035, 1050 (10th Cir.2021); Long, 997 F.3d at 355 (D.C.Cir.).

As those circuits recognize, the FSA's purpose was to remove BOP from its role as a "gatekeeper over compassionate release petitions," McCoy, 981 F.3d at 276, and "shift discretion" to the courts to grant release, Brooker, 976 F.3d at 230; see also Long, 997 F.3d at 801-802. Because the Statement antedates the FSA, and by its terms applies only to motions brought by BOP, it is not "applicable" to motions brought by federal defendants. McGee, 992 F.3d at 1047-1051; McCoy, 981 F.3d at 1109-1011; Brooker, 976 F.3d 235-237; Aruda, 993 F.3d at 801-802; Shkambi, 993 F.3d at 392-393.

Accordingly, courts in those circuits retain discretion to identify extraordinary and compelling reasons for release, at least until the Commission issues a new policy statement that is "applicable" to defendant-

brought motions. Section 994(t) calls for the Commission to create a non-binding and non-exclusive Statement.

B. The Sixth Circuit Has Created Conflict Among Its Own Circuit That The Statement Is "Applicable", While Different Sixth Circuit Panel Has Disagreed.

The Sixth Circuit's in this case conceded that, "we have issued conflicting decisions concerning whether and the extent to which a district court may consider a nonretroactive change in sentencing law when deciding whether a defendant has demonstrated extraordinary and compelling reasons for compassionate release. Compare McCall, 12 F.4th at 1116 ("Under our precedents, a court may consider a nonretroactive change in the law as one of several factors forming extraordinary and compelling circumstances qualifying for sentence reduction under 18 U.S.C.§3582(c)(1)(A)."), with Jarvis, 999 F.3d at 443 ("A non-retroactive statutory change in the First Step Act could not serve as an 'extraordinary and compelling reason' under §3582(c)(1)(A)(i)." (citing United States v. Tomes, 990 F.3d 500, 505 (6th Cir.2021))); see also Jarvis, 999 F.3d at 449 (Clay, J., dissenting) ("A district court can consider a non-retroactive First Step Act amendment that creates a sentencing disparity in combination with other factors as the basis for an extraordinary and compelling reason for compassionate release."). See Sixth Circuit Order in USA v. Amir Beigali, Case Number 21-2917, at Page 4-5.

Here, in rejecting Beigali's appeal, the Sixth Circuit erred in finding that Beigali's prior §924(c) conviction was final when he committed the §924(c) violation in this case, although he was still on supervised release for the prior conviction, because Johnson v. United States, 529

U.S. 694, 120 S.Ct.1795, 146 L.Ed.2d 727 (2000), which held that, "supervised release is "part of the penalty for the original offense"". Otherwise, in contrary to the Sixth Circuit opinion Beigali's prior §924(c) conviction was not final when he committed the §924(c) violation in this case. Id.

In evaluating the Sixth Circuit opinion, it is caused to depart from the authority on which the circuit relied because language in the cited opinion is inconsistent with Supreme Court precedent. (Doc. No.21-2917, pp.4-6).

In Johnson, the Supreme Court rejected lower court decisions in which the lower courts had held that a term of imprisonment imposed upon revocation of supervised release for a new crime committed during a term of supervision, a violation of a mandatory condition of supervised release, was punishment for the violation of the condition of supervised release. Johnson, 529 U.S. at 700; see 18 U.S.C.§3583(d)("The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision....."). The Supreme Court held that the revocation sentence of imprisonment is "part of the penalty for the original offense." Johnson, 529 U.S. 700.

The Supreme Court explained that critical constitutional concepts would be jeopardized if a term of imprisonment for a violation of a condition of supervised release were anything other than a part of the original penalty that a district court imposed for criminal conduct established by a guilty plea or by proof beyond a reasonable doubt of a criminal violation. For example, a district court may take a person's liberty and impose a term of imprisonment for violation of a condition of supervised release even it the violation does not involve criminal conduct. And a district

court may imprison an individual under supervision for new conduct that is a violation of criminal law if the government establishes the criminal violation by a preponderance of the evidence; the government does not have to meet the more demanding reasonable doubt standard to establish grounds for imprisonment if the government requests imprisonment because the individual violated a term of supervision by committing a new crime. Johnson, 529 U.S. at 700; see 18 U.S.C.§3583(e)(3)(stating that a district court may "revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release.....").

Moreover, in addition to the penalty that a court may assess for a violation of the condition of supervised release, an individual under supervision who violates a criminal law may be charged separately for the new violation and may be found guilty of the new criminal violation either upon a guilty plea or proof to a jury of guilt beyond a reasonable doubt. The individual may be sentenced to separate terms of imprisonment, one for the violation of the condition of supervised release and another for the new criminal conduct (as indicated in Sixth Circuit opinion), the lower standard of proof, the absence of a jury finding of guilt, and the potential for double jeopardy would create constitutional issues under the Fifth and Sixth Amendments. Johnson, 529 U.S. at 700.

More recently, in United States v. Haymond, Justice Gorsuch, writing for himself and three other justices, examined the constitutional boundaries of a judge's ability to impose a term of imprisonment for a violation of a condition of supervised release. Justice Gorsuch began with this fundamental proposition: "Only a jury, acting on proof beyond a reasonable doubt, may take a person's liberty." 139 S.Ct.2369, 2373, 204 L.Ed.2d 897 (2019). He continued: "A judge's authority to issue a sentence derives from, and is limited by, the jury's factual findings of criminal conduct." 139 S.Ct. at 2376. Tracing the history of supervision as a component of a criminal sentence, Justice Gorsuch explained that, at common law, criminal penalities initially were prescribed and that probation and parole, periods of supervised "conditional liberty" substituted for part or all of a prison term and subject to revocation, were fashioned by legislatures as "an act of grace.'" 139 S.Ct.at 2377. In 1984, Congress eliminated federal parole and substituted supervised release, a form of condition liberty that does not replace a portion of an individual's initial term of imprisonment but follows the term of imprisonment as a component of a defendant's overall sentence "to encourage rehabilitation after the completion of a prison term." 139 S.Ct. 2382 (emphasis in Haymond).

To be constitutionally sound, a prison term imposed upon revocation of a period of condition liberty may not "exceed the remaining balance of the term of imprisonment already authorized by the jury's verdict" (or the facts supporting a guilty plea) because a period of imprisonment for a violation of a condition of conditional liberty, here supervised release, is tethered to the facts that producted the entire sentence of imprisonment and supervision, not the conduct that violated the condition of supervision.

139 S.Ct. at 2377. Justice Gorsuch reiterated the lesson of Johnson:

> Today, we merely acknowledge that an accused's final sentence includes any supervised release sentence he may receive. Nor in saying that do we say anything new: This Court has already recognized that supervised release punishments arise from and are "treated as part of the penalty for the initial offense." Johnson v. United States, 529 U.S. 694, 700, 120 S.Ct.1795, 146 L.Ed.2d 727 (2000). The defendant receives a term of supervised release thanks to his initial offense, and whether that release is later revoked or sustained, it constitutes a part of the final sentence for his crime. Haymond, 139 S.Ct. 2379-80. In his concurring opinion in Haymond, Justice Breyer put it this way:
>
> The consequences that flow from violation of the conditions of supervised release are first and foremost considered sanctions for the defendant's "breach of trust" - his "failure to follow the court-imposed conditions that followed his initial conviction-not "for the particular conduct triggering the revocation as if that conduct were being sentenced as new federal criminal conduct." United States Sentencing Commission, Guidelines Manual ch.7, pt.A, intro. 3(b)(Nov. 2018); see post, at 2393. Consistent with that giew, the consequences for violation of conditions of supervised release under §3583(e), which governs most revocations, are limited by the severity of the original crime of conviction, not the conduct that results in revocation. 139 S.Ct.at 2386 (Breyer, J., concurring).

Reading Johnson and the principal and concurring opinions in Haymond together, this much is clear: a prison term imposed for violation of a condition of supervised release is cabined by the facts that undergrid an individual's criminal conviction and the resulting sentence, not the facts that support the finding of a violation of a condition of supervised release. In that sense, a term of imprisonment for revocation of supervised release is related to the original term of incarceration, and a prison sentence for revocation, when combined with the initial term of imprisonment, may not exceed the statutory maximum for the conduct that produced the criminal sentence. Simply put, this mean that an individual is still serving his original term of imprisonment within the meaning of the second or subsequently §924(c)(1)(C)

(i) statutory requirement and that mandatory consecutive sentence of 25 years of imprisonment does not apply when he is also imprisoned for a violation of a condition of supervision. 139 S.Ct.at 2382 (emphasis in Haymond).

Term of imprisonment imposed for a violation of a condition of supervised release were an extension of an initial term of imprisonment, such that statutorily §924(c)(1)(C)(i) does not apply because Mr.Beigali's for purposes of second or subsequently firearm conviction was still serving term of imprisonment on his first firearm conviction under 18 U.S.C.§924 (c)(1)(C)(i).

WHEREFORE, Beigali's argument that his youth at the time time he committed the offenses, his post-sentencing rehabilitation, his "good character", combined with sentence disparity because §924(c)(1)(C)(i) and resulting mandatory consecutive 25-year sentence did not apply to him since his first §924(c) conviction was not final. Given fact, that he was serving term of supervised release imposed on same conviction under §924 (c) within meaning of Johnson and Haymond. Otherwise, conceding that Sixth Circuit's had issued conflicting decisions concerning whether and the extent to which a district court may consider a nonretroactive change in sentencing law when deciding whether a defendant has demonstrated extraordinary and compelling reasons for compassionate release, in combination with Constitutional error that Beigali's prior §924(c) conviction was final when he committed the §924(c) violation in this case, while he was still serving supervised release term from prior §924(c) at time when he committed the §924(c) violation in this case established that circuit opinion is wronged. See, Page 5 - Sixth Circuit opinion, Case No.21-2917

issued on March 9,2022.

C. The Decision Below Bars Consideration Of Sentence Disparities Created By District Court Own Making As Extraordinary And Compelling Reasons

Courts have also determined that disparities between the sentences of similarly situated co-defendants can support a finding of extraordinary and compelling reasons for release. See, e.g. United States v. Edwards, CR No. PJM 05-179, 2021 WL 1575276, at *2 (D.Md. Apr. 22,2021)(granting compassionate release to middling supplier of drugs because of the "striking disparity" between his sentence and the "violent ringleader of a drug trafficking organization," who, unlike the defendant, was able to receive the benefit of several retroactive changes in sentencing law); United States v. Minicone, No. 5:89-CR-173, 2021 WL 732253, at *3-5 (N.D.N.Y. Feb. 25,2021)(granting compassionate release to elderly defendant whose sentence was out of step with his co-defendant and which the sentencing judge had tried three times to reduce (and been reversed each time) pre-Booker); United States v. Price, 496 F.Supp.3d 83, 89-90 (D.D.C. 2020)(granting compassionate release to defendant who received a longer sentence than the more culpable ring leader of the drug conspiracy and whose equally culpable peers in the conspiracy had all already received compassionate release). Take Eric Millan. In 1991, he was charged with leading a large heroin distribution conspiracy in the Bronx and Manhattan called "Blue Thunder". United States v. Millan, No. 91-CR-685 (LAP), 2020 WL 1674058, at *2 (S.D.N.Y. April 6,2020). Millan was sentenced to mandatory life in prison under 21 U.S.C.§848(b) for engaging in a continuing criminal enterprise. Id. at *3-4. Over the next three decades, Millan sat behind bars while his co-defendants had their life sentences

reduced and left prison. Over time, his sentence grew increasingly "out-of-line with those of his co-defendants." Id. at *15.

Nevertheless, Millian did not let that, or his original criminal conduct, define him. "Despite having had no realistic hope of release," Millan spent the next nearly three decades reforming himself. Id. at *8. Millan completed 7,600 hours of programming and apprenticeships; he earned an Associate's Degree in business administration; he worked a full-time job as an assistant to five successive prison factory managers; he participated in at-risk youth and suicide prevention programs for more than twenty years; and he became a leader in his church and a man of deep faith. Id. at *9-14. Millan's son credits his father - over the course of "faithful" weekly calls from prison - with steering him away from a life of crime and consdiers his father his best friend. Id. at *1.

Ultimately, the district court concluded that the sentencing disparity, Millan's rehabilitation, his "extraordinary character," his leadership in the religious community at FCI Fairton," and "his dedication to work with at-risk youth and suicide prevention" all constituted extraordinary and compelling reasons for his release. Id. at *15.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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