

No. 22-5470

In the
Supreme Court of the United States

LARRY CHAMBERS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Sixth Circuit

REPLY IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI

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The government’s response to Larry Chambers’s petition for a writ of certiorari underscores why this petition should be granted, the decision by the Sixth Circuit Court of Appeals vacated, and the case remanded for further proceedings.

The government recognizes that *Concepcion v. United States*, 142 S. Ct. 2389 (2022), issued *after* the Sixth Circuit’s rulings in this matter, including the initial majority decision, the dissent, and the denial of rehearing en banc. (Resp. 10–11.) The government claims that this case does not implicate the question in *Conception*, but that’s not so: In *Conception*, this Court held that “the First Step Act allows district

courts to consider intervening *changes of law* or fact in exercising their discretion to reduce a sentence pursuant to the First Step Act.” *Id.* at 2404 (emphasis added). And it is undisputed that the district court based its decision, at least in part, on its mistaken understanding that it lacked authority to reduce one of Chambers’s two life sentences because the second conviction was for engaging in a continuing criminal enterprise (CCE). Although the government claims that Chambers’s eligibility for a reduction on that charge is an open question (Resp. at 12), the Sixth Circuit in other cases has accepted the government’s concession that CCE convictions *are* eligible for a reduction, as discussed in Chambers’s petition. Remand is appropriate for the court to consider the intervening law of *Concepcion*.

In addition, as the government acknowledges, *Concepcion* emphasizes the need for district judges to “explain their decisions and demonstrate that they considered the parties’ arguments.” *Concepcion*, 142 S. Ct. at 2404. The district court did not meet that standard because it did not explain why it was reducing one life sentence and not the other, even though the two sentences were imposed together and grouped for sentencing purposes. The Sixth Circuit then made factual errors in hypothesizing reasons for this disparate treatment of the two convictions—reasons the district court never gave, again in violation of *Concepcion*.

The government attempts to excuse the factual errors by the Sixth Circuit as “highly fact-bound” and thus not warranting this Court’s review. (Resp. at 12.) But this Court need not wade into factual disputes to find that, in light of *Concepcion*, a

remand is appropriate for further explanation of the decision in this matter. Chambers is only allowed a single motion to reduce his life sentence under § 404. Both Chambers and the district court deserve an opportunity to revisit this matter in light of the intervening clarity provided by *Concepcion*. This Court thus should grant this petition, vacate the Sixth Circuit's decision, and remand for further consideration in light of *Concepcion*.

CONCLUSION

For the foregoing reasons, Petitioner Larry Chambers prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,
FEDERAL PUBLIC DEFENDER

By:

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