

No. 22-1104

22-7824

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUN 09 2023

OFFICE OF THE CLERK

Alfredo Medina — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Alfredo Medina #39027-177
(Your Name)

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(Address)

Beaumont, TX 77720
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. whether the district court "demonstrate" that it had consider Defendant's argument by a stark statement without more.
2. whether a Reduction In sentence request constitutes a challenge to the validity and duration of a sentence.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

1. United States District Judge John McBryne
2. Pro Se Litigant Alfredo Medina

RELATED CASES

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No. 4:09-CR-133-A

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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 22-11004, USDC NO. 4:09-CR-133-1; 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☐ is unpublished.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 NO. 4:09-CR-133-1; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 MARCH 31, 2023.

☒ 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).

STATEMENT OF THE CASE

In the Federal Criminal System unjust and inequitable Sentences are not a rarity... Thousand upon thousand OF Criminal defendant[s] Find themselves without recourse due to nonretroactive changes in sentencing law, statutory bars, and other Constitutional violations.

In this Case, Petitioner Medina asks that he be demonstrate that the district Court considered his arguments... The district Court just made a stark statement that it had considered the reasonable grounds.

Moreover, Petitioner Medina claims that [a] request for a "Reduction In Sentence" Under 18 USC § 3582(c)(1)(A) does not Challenge the legality and duration of a Final Sentence... The district and appeals Court think differently.

REASONS FOR GRANTING THE PETITION

A. The Fifth Circuit Court of Appeals concluded that defendants, like Medina, that argue that the district court abused its discretion in failing to consider the grounds he raised in support of compassionate release under 18 USC § 3582(c)(1)(A), fail because the court indicated that it considered and rejected the arguments. *United States v. Escajeda*, 58 F.4th 184 (5th Cir. 2023).

A stark statement without more is not enough to ["demonstrate"] that a court has considered non-frivolous arguments before it under § 3582(c)(1)(A) motion.

A First Step Act motion under § 3582(c)(1) differs in purpose from a § 3582(c)(2) motion because in the latter, Congress and the Sentencing Commission cabined district courts' discretion. This Court has been pellucidly clear that the only limitations

on a court's discretion, under the First Step Act, are those set forth by Congress in a statute and the Constitution. Moreover, recent Supreme Court precedent dictates that district courts are required to make clear that it "reasoned through [the parties'] arguments. *Concepcion v. United States*, 142 S. Ct. (2022) ("It follows, under the Court's Sentencing jurisprudence, that when deciding a First Step Act motion, district courts bear the standard obligation to explain their decisions and demonstrate that they considered the parties arguments. It is well established that a district court must generally consider parties' nonfrivolous arguments before it. see *Golon v. Saada*, 596 U.S. —, —, 2022 U.S. Lexis 2939 (2022). Of course, a district court is not required to be

persuaded by every argument parties make and it may, in its discretion, dismiss arguments that it does not find compelling without a detailed explanation. Nor is a district court required to articulate anything more than a brief statement of reasons. See *Rita v. United States*, 551 U.S. 338, 356, 127 S. Ct. 2456, 168 L.Ed.2d 203 (2007). Nothing in the First Step Act contravenes those background principles.)

The reference to the "statement of reasons" is very unique in the context of a First Step Act motion. Medina asserts that [a] statement of reasons is a brief summary of facts and any case or statutory authority which appears to support the court's conclusion. See *Chavez-Meza*, , citing to *Rita*, 551 U.S. at 357. "District courts bear the

Standard obligation, as in original sentence proceedings, to explain their decisions and demonstrate the Court considered the parties' argument... "Concepcion, 142 S. Ct. at 2404.

In this case, the district court fail in its duty and did not demonstrate that it had considered Medina's argument[s].

So how does [a] district court "demonstrate" that it has considered the parties arguments before it under § 3582(c)(1)(A)?

B. The Fifth Circuit holds that the district court considered and rejected Medina's argument and cited to [] recent cases that deal with the so-called habeas-channeling rule. *United States v.*

Escajeda, 58 F.4th 184 (5th Cir 2023).

Medina asserts that [a] request for a "Reduction In Sentence" under 18 USC §3582(c)(1)(A) [does not] challenge the legality and duration of a final sentence. . . . A motion under §3582(c)(1) only asks the court for leniency - to consider an unusually long sentence. Under the rule of lenity, this court has long held, statutes imposing penalties are to be "construed strictly" against the government and in favor of individuals. *Commissioner v. Acker*, 361 U.S. 87, 91 (1959). [T]he rule exists in part to protect the Due Process Clause's promise that "a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed." *McBoyle v. United States*, 283 U.S. 25 (1931).

In *United States v. McMoryion*, 2023 U.S. App. Lexis 7367, 2023 WL 2658434 (5th Cir. Mar. 28, 2023) the Fifth Circuit held that defendants cannot raise substantive challenges to the "legality" of their confinement. Citing to *United States v. Escajeda*, 58 F4th at 186. In *United States v. Jenkins*, 50 F4th 1185 (D.C. 2022), the main case used in the reasoning in *Escajeda*, the Court held that "For a Court to grant compassionate release based on alleged *winstead* error, it would have to conclude that there in fact was *winstead* error, [which would imply the invalidity of the sentence as originally imposed]". The Jenkins Court relied on this Court reasoning on the habeas-channeling rule of *Preiser*, 411 U.S. at 486.

Medina asserts that [a] judgment in favor of a

Policy Disagreement with the "purity-driven" methamphetamine sentencing guidelines would only invalidate a "Sentencing Factor" not the actual statutory sentence under 21 U.S.C. § 841(b)(1)(A), and § 846. *United States v. Moore*, 2017 U.S. Dist. Lexis 18050 (his prior convictions merely increased his sentence within the statutory range of potential penalties imposed by § 841 and § 846. The maximum penalty for his crime under those statutes was life in prison. See, 21 USC § 841(b)(1)(A)(iii)). In this case, the district judge had the authority to give Medina the same sentence without the purity-driven methamphetamine guideline range.

This claim does not fall under the habeas-channeling rule... because § 3582(c)(1)(A) relief is "not" mandatory, its discretionary. Medina seek neither to

11.

invalidate his conviction nor the duration of his sentence.
see, *Wilks v. Dotson*, 125 S.Ct. at 81-82; *Skinner v. Switzer*,
131 S.Ct. at 8. A § 3582(c)(1) motion is simply a way to urge
a court to exercise leniency and are not a true challenge
to the appropriateness of the original sentence.

CONCLUSION

Media ask the court to Grant certiorari review.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Alfredo Medina

Date: June 5, 2023