

APPENDIX

Appendix A: Third Superseding Indictment

Appendix B: Judgment: October 28, 2016

Appendix C: US Supreme Court Order, April 17, 2017

Appendix D: Amended Judgment

Appendix E: Motion for Compassionate Release and/or Sentence Reduction
pursuant to 18 USC Sec. 3582C(1)(A)(i))

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Appendix H: Opinion of Sixth Circuit Court of Appeals, United States of America
vs. Bernard Edmond, Case No. 22-1443).

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix A: Third Superseding Indictment

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

CRIMINAL NO. 11-20188

v.
Plaintiff,

HONORABLE GEORGE CARAM STEEH

D-1 BERNARD THOMAS EDMOND,
D-2 PHILLIP HARPER,
D-3 JUSTIN BOWMAN,
D-4 FRANK HARPER,
D-5 DARRELL DEVIN YOUNG,
D-6 OMAR JOHNSON,

VIOLATIONS: 18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 511
18 U.S.C. § 924(c)
18 U.S.C. § 1512(a)(2)
18 U.S.C. § 2119(1)
18 U.S.C. § 2119(2)
18 U.S.C. § 2312
18 U.S.C. § 2321
18 U.S.C. § 2322

Defendants.

THIRD SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(18 U.S.C. § 371—Conspiracy to Violate United States Law)

D-1 BERNARD THOMAS EDMOND
D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER
D-5 DARRELL DEVIN YOUNG
D-6 OMAR JOHNSON

U.S. DIST. COURT OF APPEALS
EAST. DIST. OF MICHIGAN
DETROIT

THE CONSPIRACY AND ITS OBJECTS

(1) From about January, 2009, and continuing until about March 2012, in the Eastern District of Michigan, Southern Division, defendants BERNARD THOMAS EDMOND, PHILLIP HARPER, JUSTIN BOWMAN, FRANK HARPER, DARRELL DEVIN YOUNG,

and OMAR JOHNSON knowingly and wilfully conspired and agreed with each other and with others both known and unknown to the Grand Jury to commit the following offenses against the United States: carjacking, in violation of Title 18, United States Code, Sections 2119(1) and 2119(2); operating a chop shop in violation of Title 18, United States Code, Section 2322; interstate transportation of stolen vehicles in violation of Title 18, United States Code, Section 2312; and altering vehicle identification numbers in violation of Title 18, United States Code, Section 511.

MANNER AND MEANS OF THE CONSPIRACY

(2) It was a part of the conspiracy that defendants BERNARD THOMAS EDMOND and OMAR JOHNSON would buy stolen motor vehicles from defendants PHILLIP HARPER, FRANK HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG, and others.

(3) It was further a part of the conspiracy that defendant BERNARD THOMAS EDMOND would alter the vehicle identification number of stolen motor vehicles in order to conceal that they had been stolen, and would do this at a business building in the vicinity of Lyndon and Livernois; and at a home on Coyle Street, a home on Winthrop, a home on Rosemont, and a home on Parkview, all in the City of Detroit, among other locations.

(4) It was further a part of the conspiracy that defendant BERNARD THOMAS EDMOND would create false paperwork to make it appear that various persons and companies were the legitimate owners of the stolen motor vehicles, and would pay persons to submit this paperwork to the Michigan Secretary of State in order to obtain State of Michigan titles for the stolen vehicles using the altered vehicle identification numbers.

(5) It was further a part of the conspiracy that after fraudulently obtaining State of Michigan titles defendant BERNARD THOMAS EDMOND would sell and otherwise transfer stolen vehicles in various locations, including other states and other countries.

(6) It was further a part of the conspiracy that defendant BERNARD THOMAS EDMOND created a market for the theft of high-end and sport utility vehicles, and communicated to defendants PHILLIP HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG, and others that he was willing to pay for stolen vehicles of this type.

(7) It was further a part of the conspiracy that defendants PHILLIP HARPER, FRANK HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG, and others would steal vehicles for the purpose of selling them to defendant BERNARD THOMAS EDMOND and to defendant OMAR JOHNSON acting on behalf of BERNARD THOMAS EDMOND, among others.

(8) It was further a part of the conspiracy that in order to obtain the types of vehicles sought by defendant BERNARD THOMAS EDMOND, defendants PHILLIP HARPER, FRANK HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG, and others would often steal vehicles from the persons who owned them. In order to accomplish this, one or more of the defendants would often use a minivan to transport themselves and/or their co-conspirators to a location where they were likely to locate high-end and sport utility vehicles. Defendants' target locations included restaurants, casinos, and other businesses with valet services.

(9) It was further part of the conspiracy that defendants PHILLIP HARPER, FRANK HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG, and others would carry and brandish a firearm during and in furtherance of the vehicle thefts to force, threaten and intimidate

their victims into relinquishing control of the vehicles. Defendants also used physical force when necessary in order to execute their carjacking plan.

(10) It was further part of the conspiracy that defendants PHILLIP HARPER, JUSTIN BOWMAN, DARRELL DEVIN YOUNG and others would sell or attempt to sell the vehicles they had carjacked and otherwise stolen to defendant BERNARD THOMAS EDMOND and to OMAR JOHNSON on behalf of BERNARD THOMAS EDMOND, among others.

OVERT ACTS

Defendants and other coconspirators committed the following acts along with other acts to further the conspiracy and accomplish its objectives:

- (A) On about January 30, 2009, defendant BERNARD THOMAS EDMOND paid a person about \$50 to apply to the Michigan Secretary of State for a State of Michigan title for a stolen 2008 GMC Yukon using an altered vehicle identification number.
- (B) On about December 22, 2009, defendant BERNARD THOMAS EDMOND paid a person about \$50 to submit an application for vehicle title to the Michigan Secretary of State for a stolen 2009 Ford pickup truck.
- (C) In about the spring of 2010 defendant BERNARD THOMAS EDMOND solicited another person to steal a Mercury Marauder.
- (D) On about June 24, 2010, defendant BERNARD THOMAS EDMOND stored a 2010 Dodge Challenger, which had been stolen from Ellwood City, Pennsylvania, at 15845 Winthrop in Detroit.
- (E) On about October 14, 2010, defendants PHILLIP HARPER and JUSTIN BOWMAN and other persons brandished a firearm to steal a 2010 Cadillac Escalade, a 2010 GMC Yukon, a 2008 Chrysler Aspen, and 2006 Mercury Milan from the Elysium Club in

Detroit, Michigan, and then sold or transferred at least one of these vehicles to defendant BERNARD THOMAS EDMOND.

(F) On about November 17, 2010, defendant PHILLIP HARPER and another person stole a 2011 Acura MDX from the vicinity of the Westin Hotel in Detroit, Michigan, and then sold or transferred this vehicle to defendant BERNARD THOMAS EDMOND.

(G) On about December 1, 2010, defendant BERNARD THOMAS EDMOND caused a stolen 2011 Acura MDX to be transported from the State of Michigan to the State of Maryland.

(H) On about December 20, 2010, defendants PHILLIP HARPER and JUSTIN BOWMAN, along with another person, stole a 2003 Hummer and a Mercedes S550 from the vicinity of Flood's Bar & Grill in Detroit, Michigan, and then sold or transferred the Mercedes S550 to defendant OMAR JOHNSON on behalf of defendant BERNARD THOMAS EDMOND.

(I) In or around late December 2010, defendants PHILLIP HARPER and JUSTIN BOWMAN, along with another person, stole a Mercedes S550 and two Jeep Cherokees from the vicinity of the Rattlesnake Club in Detroit, Michigan.

(J) On about December 30, 2010, defendant DARRELL DEVIN YOUNG, along with another person, brandished a gun to steal a Mercedes S550 from a person in the vicinity of Grandville and Joy Road in Detroit, Michigan, and then sold or transferred the Mercedes S550 to defendant BERNARD THOMAS EDMOND.

(K) On about January 1, 2011 defendants PHILLIP HARPER and JUSTIN BOWMAN, along with another person, stole a Jaguar XJ from the vicinity of Flood's Bar & Grill in Detroit, Michigan.

(L) On about January 4, 2011, defendant PHILLIP HARPER and three other persons stole three Cadillac Escalades from the vicinity of MGM Casino in Detroit, Michigan, and then

sold or transferred one or more stolen Cadillac Escalades to defendant BERNARD THOMAS EDMOND.

(M) On about January 7, 2011, defendant PHILLIP HARPER and another person stole two GMC Yukon Denalis from Henry Ford Hospital in Detroit, Michigan, and then sold or transferred one of the stolen GMC Denalis to defendant BERNARD THOMAS EDMOND.

(N) On about January 25, 2011, defendants JUSTIN BOWMAN and FRANK HARPER, and another person, brandished a firearm to steal a Mercedes S550 from a person in the vicinity of Atwater and Jos. Campau streets in Detroit, Michigan, and then sold or transferred the stolen Mercedes S550 to defendant BERNARD THOMAS EDMOND.

(O) On about January 25, 2011, defendant BERNARD THOMAS EDMOND tampered with and altered the vehicle identification number for a stolen 2007 S550 Mercedes-Benz, and then sold or transferred that vehicle to PHILLIP HARPER in exchange for other stolen vehicles.

(P) On about January 29, 2011, defendant BERNARD THOMAS EDMOND caused a person to sign an application for vehicle title for a stolen 2009 Ford Fusion, which application was submitted to the Michigan Secretary of State.

(Q) On about January 31, 2011, defendants PHILLIP HARPER, FRANK HARPER, and JUSTIN BOWMAN, along with another person, brandished a gun to steal a Chevrolet Camaro, an Infiniti, and a Cadillac CTS from a person on Jos. Campau Street in Detroit, Michigan.

(R) On about February 22, 2011, defendants PHILLIP HARPER, FRANK HARPER, JUSTIN BOWMAN, and another person brandished a gun to steal a Chevrolet Tahoe, Cadillac

Escalade, and Cadillac CTS from a person in the vicinity of Opus One restaurant in Detroit, Michigan.

(S) On about March 12, 2011, defendant PHILLIP HARPER and another person brandished a gun to steal or attempt to steal a Porsche Panamera from a person in the vicinity of Greektown Casino in Detroit, Michigan, with the intent of selling the vehicle to defendant BERNARD THOMAS EDMOND.

(T) On about March 20, 2011, defendants PHILLIP HARPER, JUSTIN BOWMAN, and DERRELL YOUNG brandished a gun to steal a Lexus 460 from a person at the vicinity of Club Vain on Woodward in Detroit, Michigan.

(U) On about October 4, 2011, defendant BERNARD THOMAS EDMOND paid a person about \$100 to travel from Michigan to Ohio to assist with the sale in Ohio of a 2011 Cadillac CTS which had been stolen in the State of Michigan.

(V) On about October 4, 2011, defendant BERNARD THOMAS EDMOND caused a 2011 Cadillac CTS, which had been stolen in the State of Michigan, to travel from the State of Michigan to the State of Ohio.

(W) On about December 7, 2011, defendant BERNARD THOMAS EDMOND caused a stolen 2008 GMC Yukon Denali to be delivered to Laurel Park Place in Livonia, Michigan.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

(18 U.S.C. §§ 2119(1) & 2 – Carjacking & Causing Carjacking)

- D-1 BERNARD THOMAS EDMOND
- D-2 PHILLIP HARPER
- D-3 JUSTIN BOWMAN

On about October 14, 2010, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND induced and caused defendants PHILLIP HARPER and JUSTIN BOWMAN to take motor vehicles from the person and presence of Mizanur Rahman with the intent to cause serious bodily harm and death, specifically, a 2010 Cadillac Escalade, a 2010 GMC Yukon, a 2008 Chrysler Aspen, and 2006 Mercury Milan, each of which had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, in violation of Title 18, United States Code, Sections 2119(1) and 2.

COUNT THREE

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

- D-1 BERNARD THOMAS EDMOND
- D-2 PHILLIP HARPER
- D-3 JUSTIN BOWMAN

On about October 14, 2010, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND induced and caused defendants PHILLIP HARPER and JUSTIN BOWMAN to intentionally use and carry a firearm during and in relation to the commission of a crime of violence for which PHILLIP HARPER, JUSTIN BOWMAN, and BERNARD THOMAS EDMOND may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Two of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT FOUR

(18 U.S.C. §§ 2119(1) & 2 – Carjacking & Causing Carjacking)

D-1 BERNARD THOMAS EDMOND
D-5 DARRELL DEVIN YOUNG

On about December 30, 2010, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced defendant DARRELL DEVIN YOUNG to take a motor vehicle from the person and presence of Annetta Powell with the intent to cause serious bodily harm and death, specifically, a 2009 Mercedes S550 that had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, causing serious bodily injury as a result of such actions, in violation of Title 18, United States Code, Sections 2119(2) and 2.

COUNT FIVE

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-1 BERNARD THOMAS EDMOND
D-5 DARRELL DEVIN YOUNG

On about December 30, 2010, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced defendant DARRELL DEVIN YOUNG to intentionally use and carry a firearm during and in relation to the commission of a crime of violence for which DARRELL DEVIN YOUNG and BERNARD THOMAS EDMOND may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Four of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT SIX

(18 U.S.C. §§ 2119(1) & 2 – Carjacking & Causing Carjacking)

D-1 BERNARD THOMAS EDMOND
D-3 JUSTIN BOWMAN

On about January 25, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced JUSTIN BOWMAN, FRANK HARPER, and others to take a motor vehicle from the person and presence of Errol Service with the intent to cause serious bodily harm and death, specifically, a 2007 S550 Mercedes-Benz that had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, in violation of Title 18, United States Code, Sections 2119(1) and 2.

COUNT SEVEN

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-1 BERNARD THOMAS EDMOND
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER

On about January 25, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced defendants JUSTIN BOWMAN and FRANK HARPER and another person to intentionally use and carry a firearm during and in relation to the commission of a crime of violence for which JUSTIN BOWMAN, FRANK HARPER, and BERNARD THOMAS EDMOND may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Six of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT EIGHT

(18 U.S.C. §§ 2119(1) & 2 – Carjacking & Causing Carjacking)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER

On about January 31, 2011, in the Eastern District of Michigan, Southern Division, defendants PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER, with the intent to cause serious bodily harm and death, took motor vehicles from the person and presence of Ricky Boyd, specifically, a 2010 Chevrolet Camaro and a 2011 Infiniti QX56, both of which had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, in violation of Title 18, United States Code, Sections 2119(1) and 2.

COUNT NINE

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER

On about January 31, 2011, in the Eastern District of Michigan, Southern Division, defendants PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER intentionally used and carried a firearm during and in relation to the commission of a crime of violence for which PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Eight of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT TEN

(18 U.S.C. §§ 2119(1) & 2 – Carjacking & Causing Carjacking)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER

On about February 22, 2011, in the Eastern District of Michigan, Southern Division, defendants PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER took motor vehicles from the person and presence of Ahmed Asad Hussain with the intent to cause serious bodily harm and death, specifically, a 2009 Cadillac Escalade Hybrid and 2010 Chevrolet Tahoe, each of which had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, in violation of Title 18, United States Code, Sections 2119(1) and 2.

COUNT ELEVEN

(18 U.S.C. §§ 924(c)& 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-4 FRANK HARPER

On about February 22, 2011, in the Eastern District of Michigan, Southern Division, defendants, PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER intentionally used and carried a firearm during and in relation to the commission of a crime of violence for which PHILLIP HARPER, JUSTIN BOWMAN, and FRANK HARPER may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Ten of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT TWELVE

(18 U.S.C. §§ 2119(1) & 2 – Attempted Carjacking & Causing Attempted Carjacking)

D-1 BERNARD THOMAS EDMOND
D-2 PHILLIP HARPER

On about March 12, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced defendant PHILLIP HARPER to attempt to take a motor vehicle from the person and presence of Shah Jahangir Ali with the intent to cause serious bodily harm and death, specifically, a 2011 Porsche Panamera that had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, in violation of Title 18, United States Code, Sections 2119(1) and 2.

COUNT THIRTEEN

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-1 BERNARD THOMAS EDMOND
D-2 PHILLIP HARPER

On about March 12, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND caused and induced defendant PHILLIP HARPER to intentionally use and carry a firearm during and in relation to the commission of a crime of violence for which PHILLIP HARPER and BERNARD THOMAS EDMOND may be prosecuted in a court of the United States, that is, attempted carjacking as alleged in Count Twelve of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT FOURTEEN

(18 U.S.C. §§ 2119(2) & 2 – Carjacking & Causing Carjacking)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-5 DARRELL DEVIN YOUNG

On about March 20, 2011, in the Eastern District of Michigan, Southern Division, defendants PHILLIP HARPER, JUSTIN BOWMAN, and DARRELL DEVIN YOUNG took a motor vehicle from the person and presence of Hamzh Jamal-Abdel-Rahim Mehyar and Hussein Bazzi with the intent to cause serious bodily harm and death, specifically, a 2010 Lexus 460 that had been transported, shipped and received in interstate commerce, and did so by force and violence and intimidation, causing serious bodily injury as a result of such actions, in violation of Title 18, United States Code, Sections 2119(2) and 2.

COUNT FIFTEEN

(18 U.S.C. §§ 924(c) & 2 – Using and Carrying a Firearm During and in Relation to a Crime of Violence)

D-2 PHILLIP HARPER
D-3 JUSTIN BOWMAN
D-5 DARRELL DEVIN YOUNG

On about March 20, 2011, in the Eastern District of Michigan, Southern Division, defendants PHILLIP HARPER, JUSTIN BOWMAN, and DARRELL DEVIN YOUNG intentionally used and carried a firearm during and in relation to the commission of a crime of violence for which PHILLIP HARPER, JUSTIN BOWMAN, and DARRELL DEVIN YOUNG may be prosecuted in a court of the United States, that is, carjacking as alleged in Count Fourteen of this Indictment, all in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT SIXTEEN

(18 U.S.C. §§ 2312 & 2 – Causing Interstate Transportation of Stolen Motor Vehicle)

D-1 BERNARD THOMAS EDMOND

Between about November 17, 2010 and December 1, 2010, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND unlawfully transported and caused to be transported from the State of Michigan to the State of Maryland a stolen motor vehicle, that is, a 2011 Acura MDX with vehicle identification number 2HNYD2H6XBH506794, knowing the same to be stolen, in violation of Title 18, United States Code, Sections 2312 and 2.

COUNT SEVENTEEN

(18 U.S.C. § 511 – Falsification and Removal of Motor Vehicle Identification Numbers)

D-1 BERNARD THOMAS EDMOND

On about January 25, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND knowingly and unlawfully tampered with and altered the vehicle identification number for a motor vehicle, specifically, a 2007 S550 Mercedes-Benz with true vehicle identification number WDDNG86X97A093177 which defendant altered to WDDNG86X57A095282, in violation of Title 18, United States Code, Section 511.

COUNT EIGHTEEN

*(18 U.S.C. § 2321 – Trafficking in Motor Vehicles
With Falsified, Altered or Removed Identification Numbers)*

D-1 BERNARD THOMAS EDMOND

On about January 25, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND knowingly bought, received, possessed, and obtained control of, with intent to sell and otherwise dispose of, a motor vehicle, specifically, a 2007 S550 Mercedes-Benz with vehicle identification number WDDNG86X97A093177, knowing that the vehicle identification number of said vehicle had been unlawfully tampered with and altered, in violation of Title 18, United States Code, Section 2321.

COUNT NINETEEN

(18 U.S.C. §§ 2312 & 2 – Causing Interstate Transportation of Stolen Motor Vehicle)

D-1 BERNARD THOMAS EDMOND

On about October 4, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND unlawfully transported and caused to be transported from the State of Michigan to the State of Ohio a stolen motor vehicle, that is, a 2011 CTS with true vehicle identification number 1G6DG8EYXB0136510, knowing the same to be stolen, in violation of Title 18, United States Code, Sections 2312 and 2.

COUNT TWENTY

*(18 U.S.C. § 2321 – Trafficking in Motor Vehicles
With Falsified, Altered or Removed Identification Numbers)*

D-1 BERNARD THOMAS EDMOND

On about October 4, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND knowingly possessed, with intent to sell and otherwise dispose of, a motor vehicle, specifically, a 2011 Cadillac CTS with altered vehicle identification number 1G6DL8ED8B0161222, knowing that the vehicle identification number of said vehicle had been unlawfully tampered with and altered, in violation of Title 18, United States Code, Section 2321.

COUNT TWENTY-ONE

*(18 U.S.C. § 2321 – Trafficking in Motor Vehicles
With Falsified, Altered or Removed Identification Numbers)*

D-1 BERNARD THOMAS EDMOND

On about December 7, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND knowingly possessed, with intent to sell and otherwise dispose of, a motor vehicle, specifically, a 2008 GMC Yukon Denali with an altered vehicle identification number, knowing that the vehicle identification number of said vehicle had been unlawfully tampered with and altered, in violation of Title 18, United States Code, Section 2321.

COUNT TWENTY-TWO

(18 U.S.C. § 2322(a)(1) and (b) – Operating a Chop Shop)

D-1 BERNARD THOMAS EDMOND

From about January 1, 2009, through about December 31, 2011, in the Eastern District of Michigan, Southern Division, defendant BERNARD THOMAS EDMOND knowingly owned, operated, maintained, and controlled chop shops and conducted operations in chop shops at a building in the vicinity of Lyndon and Livernois; at 18717 Coyle, at 19303 Rosemont, at 440 Parkview, and at 15845 Winthrop, all in Detroit, Michigan, where one or more persons engaged in receiving, concealing, and storing passenger motor vehicles which had been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, and remove the identities, including the vehicle identification numbers or derivatives thereof, of such vehicles and to distribute, sell, and dispose of such vehicles in interstate or foreign commerce, in violation of Title 18, United States Code, Section 2322(a)(1) and (b).

COUNT TWENTY-THREE

(18 U.S.C. §§ 1512(a)(2)(C) & 2 – Tampering With a Witness by Physical Force or Threat)

D-2 PHILLIP HARPER

Between about the Summer of 2011 and the Spring of 2012, in the Eastern District of Michigan, Southern Division, defendant PHILLIP HARPER used and attempted to use the threat of physical force against Shah Jahangir Ali by sending another person or persons to Shah Jahangir Ali's place of employment to threaten Shah Jahangir Ali with the intent to hinder, delay, and prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission of the federal offense of carjacking, in violation of Title 18, United States Code, Sections 1512(a)(2)(C) and 2.

FORFEITURE ALLEGATIONS

Pursuant to Fed.R.Cr.P. 32.2(a), the Government hereby provides notice to Defendants of its intention to seek forfeiture of all proceeds, direct or indirect, or property traceable thereto, all property that facilitated the commission of the violations alleged, or property traceable thereto, and all property involved in, or property traceable thereto, of the crimes set forth in this Indictment.

THIS IS A TRUE BILL.

s/ Grand Jury Foreperson
GRAND JURY FOREPERSON

BARBARA L. McQUADE
United States Attorney

s/ John N. O'Brien II
JOHN N. O'BRIEN II
Chief, Violent Crime Unit
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
phone: 313-226-9715
email: john.obrien@usdoj.gov

s/ Lynn Helland
LYNN HELLAND
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
email: lynn.helland@usdoj.gov

Dated: July 9, 2013

s/ Jerome F. Gorgon Jr.
JEROME F. GORGON JR.
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
phone: 313-226-9676
email: jerome.gorgon@usdoj.gov

United States District Court Eastern District of Michigan	Criminal Case Cover Sheet	Case Number 11-20188
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []

Companion Case Information		Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :		Judge Assigned:
<input type="checkbox"/> Yes <input type="checkbox"/> No		AUSA's Initials:

Case Title: USA v. BERNARD THOMAS EDMOND ET AL.

County where offense occurred : _____

Check One: Felony

Misdemeanor

Petty

Indictment/ Information --- no prior complaint.

Indictment/ Information --- based upon prior complaint [Case number: _____]

Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below]

Superseding Case Information

Superseding to Case No: 11-20188

Judge: GEORGE CARAM STEEH

- Original case was terminated; no additional charges or defendants.
- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

Defendant name

Bernard Thomas Edmond

Charges

18 U.S.C. §§ 511, 2312,
18 U.S.C. §§ 2321, 2322
18 U.S.C. § 1512(a)(2)

Prior Complaint (if applicable)

Frank Harper

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

July 9, 2013

Date


JEROME F. GORGON JR.
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226-3277
Phone: 313-226-9676
Fax: 313-226-2372
E-Mail address: jerome.gorgon@usdoj.gov
Attorney Bar #:

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix B: Judgment: October 28, 2016

United States District Court

Eastern District of Michigan

United States of America
v.
BERNARD THOMAS EDMOND

JUDGMENT IN A CRIMINAL CASE

Case Number: 11CR20188-5
USM Number: 09837-039

Sanford A. Schulman
Defendant's Attorney

THE DEFENDANT:

■ Was found guilty on count(s) **1, 2, 3, 4, 5, 6, 7, 12, 17, 18, 19, 20, 21 and 22 of the Third Superseding Indictment** after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
See page 2 for details.			

The defendant is sentenced as provided in pages **2 through 8** of this judgment. This sentence is imposed pursuant to the Sentencing Reform Act of 1984

■ The defendant has been found not guilty on count(s) **Count 13 of the Third Superseding Indictment**
■ Count(s) **1 of the Second Superseding Indictment** is dismissed on the motion of the United States after a plea of not guilty.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 27, 2014

Date of Imposition of Judgment



s/George Caram Steeh
United States Senior Judge

October 28, 2014

Date Signed

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

Judgment-Page 2 of 8

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 371	Conspiracy to Violate United States Law	March 2012	1S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	10/14/10	2S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	10/14/10	3S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	12/30/10	4S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	12/30/10	5S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	1/25/11	6S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	1/25/11	7S
18 USC §§ 2119(1) and 2	Attempted Carjacking and Causing Attempted Carjacking	3/12/11	12S
18 USC § 511	Falsification and Removal of Motor Vehicle Identification Numbers	1/25/11	17S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	1/25/11	18S
18 USC §§ 2312 and 2	Causing Interstate Transportation of Stolen Motor Vehicles	10/4/11	19S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	10/4/11	20S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	12/7/11	21S
18 USC §§ 2322(a)(1) and (b)	Operating a Chop Shop	12/31/11	22S

Judgment-Page 3 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

See next page for imprisonment terms.

The court makes the following recommendations to the Bureau of Prisons: **that defendant be designated to F.C.I., Milan, Michigan if possible.**

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ a
_____, with a certified copy of this judgment.

United States Marshal

Deputy United States Marshal

Judgment-Page 4 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

ADDITIONAL IMPRISONMENT TERMS

Counts 1s and 17s: 60 months on each count to be served concurrent with Counts 2s, 3s, 4s, 5s, 6s, 7s, 12s and 18s through 22s.
Counts 2s, 6s, 12s and 22s: 180 months on each count to be served concurrently with one another and to all other counts.
Count 4s: 240 months to be served concurrently to all other counts. Counts 18s through 22s: 120 months, each count, to be served concurrently and concurrent to all other counts. Count 3s: 60 months to be served consecutive to Counts 1s, 2s, 4s through 7s, 12s, and 17s through 22s. Count 5s: 25 years (300 months) to be served consecutive to Counts 1s, 2s, 3s, 4s, 6s, 7s, 12s and 17s through 22s. Count 7s: 25 years (300 months) to be served consecutive to Counts 1s, 2s, 3s, 4s, 5s, 6s, 12s and 17s through 22s.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **3 years on Counts 1-3s, 12s and 17s through 22s, all to be served concurrent with one another.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

If the defendant is convicted of a felony offense, DNA collection is required by Public Law 108-405.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court. Revocation of supervised release is mandatory for possession of a controlled substance.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. Revocation of supervised release is mandatory for possession of a firearm.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SPECIAL CONDITIONS OF SUPERVISION

- The defendant shall make monthly payments on any remaining balance of the **restitution, special assessment** at a rate and schedule recommended by the Probation Department and approved by the Court.
- The defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer.
- The defendant shall provide the probation officer access to any requested financial information.
- The defendant shall participate in a program approved by the Probation Department for substance abuse which program may include testing to determine if the defendant has reverted to the use of drugs or alcohol. ■ If necessary.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

CRIMINAL MONETARY PENALTIES

	Assessment	Fine	Restitution
TOTALS:	\$ 1,400.00	\$ 0.00	\$ 0.00

The determination of restitution is deferred until for 90 days. An *Amended Judgment in a Criminal Case* will be entered after such determination.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage
TOTALS:	\$ 0.00	\$ 0.00	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

Judgment-Page 8 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:
[A] Lump sum payment of **\$1,400.00** due immediately.

Unless the court has expressly ordered otherwise in the special instructions above, while in custody, the defendant shall participate in the Inmate Financial Responsibility Program. The Court is aware of the requirements of the program and approves of the payment schedule of this program and hereby orders the defendant's compliance. All criminal monetary penalty payments are to be made to the Clerk of the Court, except those payments made through the Bureau of Prison's Inmate Financial Responsibility Program.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix C: US Supreme Court Order, April 17, 2017

Supreme Court of the United States

No. 16-5441

BERNARD EDMOND,

Petitioner

v.

UNITED STATES

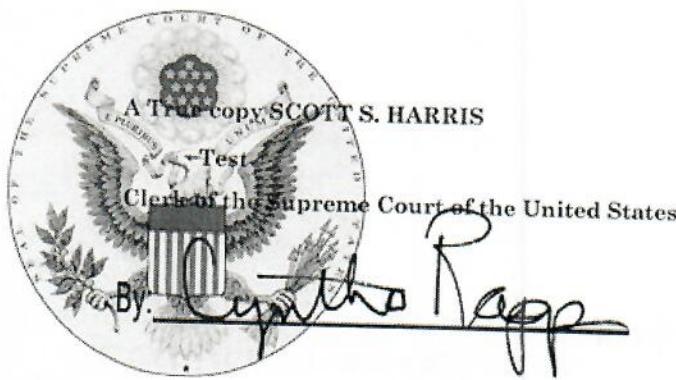
ON PETITION FOR WRIT OF CERTIORARI to the United States Court of Appeals for the Sixth Circuit.

THIS CAUSE having been submitted on the petition for writ of certiorari and the response thereto.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by this Court that the motion of petitioner for leave to proceed *in forma pauperis* and the petition for writ of certiorari are granted. The judgment of the above court is vacated, and the case is remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *Dean v. United States*, 581 U. S. ___ (2017).

April 17, 2017

Justice Gorsuch took no part in the consideration or decision of this motion and this petition.



CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix D: Amended Judgment

United States District Court

Eastern District of Michigan

United States of America
V.

BERNARD THOMAS EDMOND

AMENDED
JUDGMENT IN A CRIMINAL CASE

Case Number: 11CR20188-5
USM Number: 09837-039

Sanford A. Schulman
Defendant's Attorney

Original Judgment: 10/27/14; Reason for Amendment: Resentencing in light of *Dean v USA*, Supreme Court case

Was found guilty on count(s) **1, 2, 3, 4, 5, 6, 7, 12, 17, 18, 19, 20, 21 and 22 of the Third Superseding Indictment** after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
See page 2 for details.			

The defendant is sentenced as provided in pages **2 through 8** of this judgment. This sentence is imposed pursuant to the Sentencing Reform Act of 1984

The defendant has been found not guilty on count(s) **Count 13 of the Third Superseding Indictment**
 Count(s) **1 of the Second Superseding Indictment** is dismissed on the motion of the United States after a plea of not guilty.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

May 2, 2018
Date of Imposition of Judgment


s/George Caram Steeh
United States Senior Judge

May 9, 2018
Date Signed

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

Judgment-Page 2 of 8

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 371	Conspiracy to Violate United States Law	March 2012	1S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	10/14/10	2S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	10/14/10	3S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	12/30/10	4S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	12/30/10	5S
18 USC §§ 2119(1) and 2	Carjacking and Causing Carjacking	1/25/11	6S
18 USC §§ 924(c) and 2	Using and Carrying a Firearm During and in Relation to a Crime of Violence	1/25/11	7S
18 USC §§ 2119(1) and 2	Attempted Carjacking and Causing Attempted Carjacking	3/12/11	12S
18 USC § 511	Falsification and Removal of Motor Vehicle Identification Numbers	1/25/11	17S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	1/25/11	18S
18 USC §§ 2312 and 2	Causing Interstate Transportation of Stolen Motor Vehicles	10/4/11	19S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	10/4/11	20S
18 USC § 2321	Trafficking in Motor Vehicles With Falsified, Altered or Removed Identification Numbers	12/7/11	21S
18 USC §§ 2322(a)(1) and (b)	Operating a Chop Shop	12/31/11	22S

Judgment-Page 3 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

See next page for imprisonment terms.

The court makes the following recommendations to the Bureau of Prisons: **that defendant be designated to F.C.I., Milan, Michigan if possible.**

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ a
_____, with a certified copy of this judgment.

United States Marshal

Deputy United States Marshal

Judgment-Page 4 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

ADDITIONAL IMPRISONMENT TERMS

Counts 1s and 17s: *1 day* on each count to be served concurrent with Counts 2s, 3s, 4s, 5s, 6s, 7s, 12s and 18s through 22s.
Counts 2s, 6s, 12s and 22s: *1 day* on each count to be served concurrently with one another and to all other counts.
Count 4s: *1 day* to be served concurrently to all other counts. Counts 18s through 22s: *1 day*, each count, to be served
concurrently and concurrent to all other counts. Count 3s: 60 months to be served consecutive to Counts 1s, 2s, 4s through 7s,
12s, and 17s through 22s. Count 5s: 25 years (300 months) to be served consecutive to Counts 1s, 2s, 3s, 4s, 6s, 7s, 12s and 17s
through 22s. Count 7s: 25 years (300 months) to be served consecutive to Counts 1s, 2s, 3s, 4s, 5s, 6s, 12s and 17s through 22s.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **3 years on Counts 1-3s, 12s and 17s through 22s, all to be served concurrent with one another.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

If the defendant is convicted of a felony offense, DNA collection is required by Public Law 108-405.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court. Revocation of supervised release is mandatory for possession of a controlled substance.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report of the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. Revocation of supervised release is mandatory for possession of a firearm.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SPECIAL CONDITIONS OF SUPERVISION

- The defendant shall make monthly payments on any remaining balance of the **restitution, special assessment** at a rate and schedule recommended by the Probation Department and approved by the Court.
- The defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer.
- The defendant shall provide the probation officer access to any requested financial information.
- The defendant shall participate in a program approved by the Probation Department for substance abuse which program may include testing to determine if the defendant has reverted to the use of drugs or alcohol. ■ If necessary.

Judgment-Page 7 of 8

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

CRIMINAL MONETARY PENALTIES

	Assessment	Fine	Restitution
TOTALS:	\$ 1,400.00	\$ 0.00	\$ 0.00

The determination of restitution is deferred until for 90 days. An *Amended Judgment in a Criminal Case* will be entered after such determination.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage
TOTALS:	\$ 0.00	\$ 0.00	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: BERNARD THOMAS EDMOND
CASE NUMBER: 11CR20188-5

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:
[A] Lump sum payment of **\$1,400.00** due immediately.

Unless the court has expressly ordered otherwise in the special instructions above, while in custody, the defendant shall participate in the Inmate Financial Responsibility Program. The Court is aware of the requirements of the program and approves of the payment schedule of this program and hereby orders the defendant's compliance. All criminal monetary penalty payments are to be made to the Clerk of the Court, except those payments made through the Bureau of Prison's Inmate Financial Responsibility Program.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix E: Motion for Compassionate Release and/or Sentence
Reduction pursuant to 18 USC Sec. 3582C(1)(A)(i))

(18)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

United States of America,
Plaintiff,

*

*

v.

Criminal Action No. 2:11-cr-20188

*

*

Bernard Thomas Edmond,
BOP #09837-039,
Defendant.

*

MOTION FOR COMPASSIONATE RELEASE AND/OR
SENTENCE REDUCTION PURSUANT TO 18 U.S.C.
§3582(C)(1)(A)(i)

Comes Now, the Defendant, Bernard Edmond, by and through pro-se at this time, and respectfully moves the court seeking an order granting his Motion for Compassionate Release/Sentence Reduction to time served, pursuant to 18 U.S.C. §3582(C)(1)(A)(i), based on extraordinary and compelling reasons shown below and hereby shows the court as follows:¹

I. CASE/PROCEDURAL HISTORY

On September 17, 2013, a jury found the defendant Bernard Thomas Edmond guilty of conspiracy; four counts of carjacking; three counts of Use and Carrying a firearm during and in relation to a crime of violence; One count of causing Interstate Transportation of stolen Motor Vehicles; two counts of falsification and Removal of Motor vehicle Identification Number; Two counts of trafficking in Motor Vehicle with Falsified Altered or Removed Identification Numbers and One count of Operating

1. See Haines v. Kerner, 404 U.S. 519 (1972).

a Chop Shop.

On October 27, 2014, the court sentenced this defendant to 75 years total, which 45 years of the 75 year term of imprisonment was attributed to the mandatory minimum consecutive sentences in counts 3, 5, and 7.

The Defendant appealed his convictions. See United States v. Edmond, 815 f.3d 1032 (6th Cir. 2016). In which, in published decision dated March 3, 2016, the Sixth Circuit affirmed the defendant's convictions and sentence. Id. at 1038. The Court denied the Defendant's petition for Rehearing En banc on May 4, 2016. Id. at 1032. However, after the Supreme Court's decision in Dean v. United States, 137 S.Ct. 1170 (2017), the Sixth Circuit affirmed the Defendant's convictions but vacated his sentence and remanded for resentencing in light of Dean.

The district court sentenced the defendant to one day on ten of the convictions (the conspiracy, four carjackings and Counts 18-22), but imposed a mandatory 660 months sentence for counts 3, 5, and 7. The three §924(c) convictions. His total amended sentence was 55 years and 1 day. On August 20, 2018, the Defendant filed a pro se 28 U.S.C. Section 2255 Motion to vacate, set-aside, or correct federal sentence, in which is currently pending before the court. The Defendant now also seeks Compassionate Release/Sentence Reduction to time served based on extraordinary and compelling reasons, pursuant to 18 U.S.C. §3582(c)(1)(A)(i) and United States Sentencing Guidelines ("U.S.S.G.") Application Note 1(D).

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

On March 17, 2020, the Defendant, Benard Edmond, handed his Sentence Reduction Request to his counselor Mr. Church at U.S.P. Florence for delivery to Warden, Mr. J.A. Barnhart, requesting that he move for Compassionate Release/Sentence Reduction on the Defendant's behalf, pursuant to BOP Program Statement 5050.50; 28 C.F.R.

Section 571-61-62; and 18 U.S.C. §3582(c)(1)(A)(i). See Attachment A. The Warden's Response essentially came down to ordering U.S.P. Florence Counselor Mr(s) Allen, to instead assist the Defendant in filing a Clemency/Commutation Petition for a Sentence Reduction with the United States Office of the Pardon Attorney on or about May 25, 2020. See Attachment B. This does not constitute a proper answer by the Warden relating to a Reduction in Sentence request under 18 U.S.C. §3582(c)(1)(A)(i), PS 5050.50 or 28 C.F.R. §571.63, but does evince that there has been a lapse of 30 days to answer the defendant's March 17, 2020 RIS Request. Therefore, the Defendant has satisfied Section 3582(c)(1)(A)'s exhaustion requirement.²

III. EXTRAORDINARY AND COMPELLING REASONS

The First Step Act of 2018 ("FSA"), amended 18 U.S.C. §924(c)(1)(C)(i) such that the consecutive/enhanced mandatory minimum penalty for a second or any subsequent §924(c) conviction, 25 years, applies only when an offender's first conviction under §924(c) was final when the subsequent violation was committed. As a matter of fact, an offender now only faces a mandatory five-year consecutive sentence, rather than an enhanced 25 year sentence, for a second or subsequent §924(c) conviction when multiple §924(c) offenses are charged in the same indictment without a previous final §924(c) conviction. However, Section 403 of the FSA, codified at 18 U.S.C. §924(c)(1)(C), was not made retroactive for the Defendant Bernard Edmond, who was already sentenced before December 21, 2018, the effective date of the FSA.

2. A similar situation recently occurred in United States v. Resnick, No. 12-cr-152-CM (S.D.N.Y. Apr. 2, 2020), where the Court determined that the operative time trigger was when Resnick handed his inmate request for Compassionate Release to his prison Counselor. The court likened it to the "prison mailbox rule" which provides that an inmate's legal papers are deemed filed when they are signed and given to prison officials for mailing (citing Houston v. Lack, 487 U.S. 266, 270 (1988)).

But, Section 603 of FSA, which amended 18 U.S.C. Section 3582(c)(1)(A) - expressly created and increased the opportunity for defendants like Bernard Edmond to obtain a reduction in his sentence upon the district court's individualized consideration under a Section titled: "Increasing the Use and Transparency of Compassionate Release," where Congress amended §3582(c)(1)(A) to allow courts, to use their discretion to modify - reduce criminal sentences without necessarily for a motion by the Director of the BOP anymore, provided that the defendant has satisfied the exhaustion requirement of §3582(c)(1)(A). In which, as shown above, the defendant has satisfied, and once that is satisfied, the court can reduce a sentence if it finds that "extraordinary and compelling reasons warrant such reduction and the reduction is consistent with applicable policy statements issued by the sentencing Commission, and if applicable 18 U.S.C. §3553(a) factors - favor reduction.

The defendant's Compassionate Release Motion is based on Congress' dramatic reduction under the FSA regarding "stacked §924(c) convictions" as extraordinary and compelling reasons, in combination with the Racial disparity and disproportionate imposition of pre-First Step Act §924(c) sentence on African American men, in addition to post offense developments such as the defendant's Rehabilitation. Pepper v. United States, 562 U.S. 476, 490-93 (2011).

The sentence that was imposed - 660 months in this case on counts 3,5, and 7 combined, was the result of then available prosecutorial practice of "stacking" §924(c) charges in the same indictment without a previous §924(c) conviction. The 660 months sentence is 40 years, or more than three time longer, than what Congress has now deemed an adequate punishment for comparable §924(c) conduct. The defendant's 660 months sentence is also decades longer than sentences imposed on average for offenses at least as, if not more, serious than his offenses. There is no doubt that there is a gross §924(c) stacking disparity and racial disparity in imposing the type sentence reflected by 660 months in this case, combined with the fact that

Congress has eradicate the former prosecutorial stacking practice constitute extraordinary and compelling reaons that warrant a sentence reduction to 15 years, or time served. See United States v. Urkevich, 2019 WL 6037391 (D.Neb. Nov. 14, 2019). See also Attachment B. Id.

Congress concluded that sentences like the defendant, Bernard Edmond are unfair and unnecessary, in effect,, a Legislative declaration of what level of punishment is adequate, which the defendant requests that the Court today also finds, to be extraordinary and compelling Post-sentence developments that constitute extraordinary and compelling reasons that warrant a reduction to defendant Edmond's sentence.

Since the defendant does not rely on reasons set forth in subdivisions (A)-(C) of U.S.S.G. §1B1.13 cmt. n.1, and the Sentencing Commission has not updated subdivision (D) "other reasons" — to reflect statutory change made by the First Step Act, is by virtue, consistent with Congress purpose to allow courts to find, independant of any motion, determination or recommendation by the BOP Director, that extraordinary and compelling reasons exist based on facts and circumstances other than those set forth in U.S.S.G. §1B1.13 cmt. n.1(A)-(C) and that the reaons in this defendant's case constitute extraordinary and compelling reasons warranting a sentence reduction satisfy any requirement for consistency with any applicable policy statement.

IV. §3553(a) FACTORS

These considerations are to be assessed against the overarching principle that a sentence is to be sufficient, but not greater than necessary, for these purposes. 18 U.S.C. §3553(a).

As to the nature and seriousness of the defendant's offenses relative to his sentence, were undoubtedly serious, but his underlying offense conduct is what must

be considered in connection with his prospects for recidivism and his level of dangerousness to the public, were he to be granted release. The defendant's underlying conduct in the case must also be considered relative to the sentence he received and any reduced sentence he would receive. Granting the defendant a reduction in sentence to 15 years to serve will not result in immediate release and 15 years by any measure represents a very substantial punishment that reflects the seriousness of his offenses, specific deterrence and also a period of time that promotes respect for the law and 15 years would provide just punishment for his §924(c) offenses..

With respect to the need to avoid unwarranted sentencing disparities, not only is the defendant, Bernard Edmond's sentence of 660 months grossly disparate relative to what a defendant today would receive for comparable conduct, it is now grossly disparate to the reduced §924(c) sentence received pursuant to the First Step Act by an increasing number of defendants who were sentenced before the passage of the First Step Act. See also United States Sentencing Commission, Statistical Information Packet, Fiscal Year , available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/state-district-circuit/2018/6c18.pdf>.

While the defendant's sentence in 2014 was not disparate relative to other offenders who had been at that time sentenced for a comparable number of §924(c) violations,³ defendant Edmond is now, in effect, were to be resentenced today,

3. In this regard, the defendant notes that before the First Step Act there may have been materially different charging policies across districts regarding whether, when and to what extent to bring multiple §924(c) charges. See Sept. 18, 2013 Hearing Statement of Judge Patti Saris), available at <https://www.judiciary.Senate.gov/imo/media/doc/091813Recordsub-Leahy-pdf>(citing United States Sentencing Commission, Mandatory Minimum Penalties in the Federal Criminal Justice System.

after the passage of the First Step Act; and the need to avoid unwarranted sentencing disparities is to be assessed today relative to those comparable offenders who have been sentenced following the passage of the First Step Act. Nor does Section 403 of the First Step Act's lack of retroactivity justify withholding sentencing relief given the overall purpose of Section 603 of the First Step Act Amendments to 18 U.S.C. Section 3582(c)(1)(A), which Congress expressly allows for a sentence reduction based on an individualized assessment of the §3553(a) factors and other criteria.

The defendant finally submits to the Court that based on the applicable considerations, that he does not constitute a danger to the safety of others or the community. See 18 U.S.C. Section 3142(g); See also U.S.S.G. §1B1.13(2)(requiring the court to determine, prior to authorizing any reduction, that "defendant is not a danger" as considered under §3142(g)). While the defendant's offenses of conviction involved firearms, the court found it to be appropriate, including no government opposition, to apply Dean v. United States, 137 S.Ct. 1170 (2017), in imposing a sentence of one-day, relative to ten of his convictions (The conspiracy, four car-jackings and Counts 18-22). The defendant's limited prior criminal history involves no violence, and his post-sentence conduct since his incarceration is overwhelmingly positive and reflective of substantial rehabilitation. See Attachment D (Work performance evaluations/Progress Report, dated July __, 2020). The Defendant Bernard Edmond has no disciplinary infractions while incarcerated. Id.; See Attachments C and D. Moreover, the defendant has demonstrated a commitment to self-improvement, devoting his free time to mentoring younger inmates and help steer them in the right direction toward self-improvement as well; having been hand-selected by U.S.P. Florence Chaplaincy Dept. to work as an inmate orderly has allowed the defendant to accept Jesus Christ as his savior and God as his Almighty Lord. The def-

endant has devoted hundreds of hours working and studying his Religion in the Prison's chaplaincy Department, also the defendant has recently been invited back to the S.T.A.G.E.S. Program, where he worked before he went on writ. This is a very special program where he works as a companion with troubled inmates. The defendant has now successfully managed to acquire Religious Resources and Spiritual Outreach Programs within the Community he intends to reside upon release, and if the Court were to grant him compassionate release. As noted, the defendant has exhibited solid work ethics and in doing so, has exceeded his work supervisor's expectations across most, if not all, areas of work and he requires little to no supervision in completing his tasks. The defendant also has strong family ties and a stable plan upon his release, including a place to reside and offer of employment. Based on all these considerations, the defendant submits that a reduction to 15 years, from 55 years, is warranted as to his three §924(c) convictions; and prays that the Court does so reduce his sentence.

V. CONCLUSION

For the above reasons, the defendant Benard Edmond prays that the Honorable Court grant his Motion to Reduce Sentence Pursuant to 18 U.S.C. §3582(c)(1)(A)(i); and his sentence of 660 months, or 55 years, for his three convictions under 18 U.S.C. §924 (c) is REDUCED to a total of 180 months, or 15 years, with all other terms and conditions previously imposed to remain in effect.

Respectfully Submitted, this 26th day of April 1 2021

Bernard Thomas Edmond
Reg. No. 09837-039
U.S.P. Florence-High
p.o. box 7000
Florence, CO. 81226-7000

ATTACHMENT A

BP-A0148
JUNE 10

U.S. DEPARTMENT OF JUSTICE

INMATE REQUEST TO STAFF CDFRM

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Warden Barnhart of USP Florence-High	DATE: March 17, 2020
FROM: Bernard Edmond	REGISTER NO.: 09837-039
WORK ASSIGNMENT: Chapel Orderly	UNIT: D/A

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I, Bernard Edmond, proceeding pro se, hereby submitting my Reduction In Sentence (RIS) Request to the Warden of USP Florence-High, Colorado, in compliance with 28 C.F.R. §571.61 and Program Statement ("PS") 5050.50 (January 17, 2019), the procedures for implementation of 18 U.S.C. §3582(c)(1)(A)(i), under the First Step Act ("FSA") signed into law by President Donald J. Trump, Jr., on December 21, 2018.

This submission is therefore being made in writing because I believe that there are "extraordinary and compelling circumstances" exist which could not have reasonably been foreseen by my sentencing court at the time of my sentencing in 2014.

An inmate's Reduction in Sentence ("RIS") Request must at a minimum contain the following information: (1) The extraordinary or compelling circumstances believed to warrant consideration, and (2) Proposed Release Plans, which includes where the inmate will reside, how the inmate will support himself/herself, and if the basis of the request involves the inmate's health, then information on where he/she will receive medical treatment, and how the inmate will pay for such treatment. (Continue on additional page(s))

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

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Edmond, Bernard
Reg. No. 09837-039
Unit: D/A
March 17, 2020
RIS Request

A request for RIS is considered "submitted" when received by the Warden.

EXTRAORDINARY OR COMPELLING CIRCUMSTANCES WHICH COULD NOT REASONABLY HAVE BEEN FORESEEN BY MY SENTENCING COURT AT THE TIME OF MY SENTENCING IN 2014.

At the time of my sentencing in 2014, the law pertaining to imposition of sentences under 18 U.S.C. §924(c), provided a sentencing scheme that required the court to impose consecutive mandatory sentences, despite not having ever been convicted previously under that subsection. In imposing the type of mandatory consecutive sentences I received, the court had no discretion and could only follow the statute provision in place at the time.

But on December 21, 2018, the FSA of 2018 was signed into law. Relevant here, is Section 403(a), P.L. 115-91, 132 Stat. 5194, in which Congress recognized the fundamental unfairness of the "stacking provisions" of §924(c), and therefore amended provisions under subsection (c)(1)(c)(i) and clarified the definition of "second and subsequent." In particular, 18 U.S.C. §924(c)(1)(C)(i) was amended by striking the language "second or subsequent conviction under this section" and inserted in its place, "a violation of this subsection that occurs after a prior conviction under this section has become final. Therefore, at the time of my sentencing in 2014, the court could not have reasonably foreseen Section 403 of the FSA and exercised discretion in not imposing mandatory consecutive sentences in my case under §924(c), despite the fact that this was my first ever §924(c) case. I believe this is an extraordinary and compelling circumstance in and of itself that warrants the BOP to file a sentence reduction under 18 U.S.C. §3582(c)(1)(A) on my behalf because anyone who commits §924(c) offenses after December 21, 2018, and do not have a prior final conviction under the statute would not receive the (c)(1)(C)(i) mandatory penalty. Section 403(c) of the FSA is not retroactive, therefore, it is indeed "unfair" for some defendants to have more harsher sentences than others for the same crime simply because it was committed in a different time. Congress recognized the fact that the FSA was not retroactive, and so, amended §3582(c)(1)(A)(i), providing a new criteria for the BOP to consider in cases in which it can submit sentence reduction motions on behalf of inmates; and jurisdiction was given to sentencing courts who could reduce an inmate's sentence; "after the inmate receives a BP-11 response, or the lapse of 30 days from the receipt of such a request by the warden of the inmate's facility, whichever is earlier."

This inmate was convicted in September 2013, of Conspiracy; four counts of Carjacking, three counts of use and carrying a firearm During and in relations to a Crime of Violence, and five corresponding Motor Vehicle offenses. Initial, this Inmate received a 75 year sentence. In 2017, after the the Supreme Court's recent decision in Dean v. United States, 137 S.Ct. 1170 (2017), this Inmate Judgement was amended and an amended sentence of 55 years was imposed. This Inmate received a sentence of 55 years imprisonment, based largely on the pre-FSA approach of "stacking" §924(c) offenses. The FSA clarified that §924(c) counts can only be stacked if the second offense occurs after a final conviction on the first offense. Section 403, 132 Stat. at 5194, 5221-22. Had this inmate been convicted of the same firearms offenses today, he would be facing fifteen years imprisonment rather than fifty-five years.

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Edmond, Bernard
Reg. No. 09837-039
Unit: D/A
March 17, 2020
RIS Request

The FSA's modification of the §924(c) sentencing regime constitute an "extraordinary and compelling reason" for a sentencing reduction.

This Inmate respectfully ask you to motion the court, pursuant to 18 U.S.C. 3582(c)(1)(A)(i), to reduce his sentence based on extraordinary and compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing.

In addition, recent decisions addressing the authority of courts to grant FSA relief under Section 3582(c)(1)(A)(i) support consideration of this Inmate's request. In United States v. Maumau, No. 08-00758-TC-11, 2020 WL 806121, at *7 (D.Utah Feb. 18, 2020), the court concluded that the drastic reduction in §924(c) sentences with its elimination of stacking did provide an extraordinary and compelling reason, which — in combination with other circumstances in the case — warrant ed a modification of the defendant's sentence. Similarly, in United States v. Urkevish, No. 03-37, 2019 WL 6037391 (D. Neb. Nov. 14, 2019), the Court granted a defendant's motion on similar grounds noting "specifically the injustice of facing a term of incarceration forty years longer than Congress now deems warranted for the crimes committed." See also, United States v. Brown, 411 F.Supp.3d 446, 453 (S.D. Iowa 2019) ("district court assessing a compassionate release motion may still consider the resulting sentencing disparity" caused by the FSA in §924(c) cases).

As in the instant case, Mr. Edmond is facing a term of incarceration 40 years longer than Congress now deems warranted for his three §924(c) convictions — Him serving 15 years versus 55 years of imprisonment.

While incarcerated, Edmond has worked hard to develop his skills and abilities. He has completed 100's of hours of Educational courses and has served as a mentor to younger inmates.

Inmate Edmond is no longer the alcoholic fueled person who broke the law in furtherance of his addiction. He is a devoutly religious man who seeks out educational opportunities and mentor young inmates. Despite a sentence — 55 years no parole — that offers no hopes of release, he has overcome his addiction and now has a positive and forward looking attitude. In short, Inmate Edmond rehabilitation is complete; and he is prepared to reenter society.

I. Release Plan

If released, Inmate Edmond has strong family and community support to help him achieve his goal of becoming a productive citizen. His elderly mother, his brother and Edmond's daughter will welcome him home to Detroit, Michigan. While incarcerated Edmond has maintained particularly close contact with his mother and Brother. Edmond's brother works in the Home Improvement business, and Edmond's knowledge of construction and repair, have prepared him to work with his brother in the Home Improvement business.

Edmond also has the support of several religious organizations that support re-entry. Edmond plans to participate in self-help substance abuse treatment and counseling.

If released, Edmond has secured the emotional and social support he needs to effectively transition to a law-abiding life. With his family and community by his side, Edmond can take advantage of the opportunities he missed because of his criminal conduct.

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Edmond, Bernard
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Unit: D/A
March 17, 2020
RIS Request

He has taken responsibility for his past and has worked as hard as he can with no hope of release (atleast no time soon) to better himself through education, sobriety, and religious devotion. If given the opportunity for another chance, Edmond will re-integrate as a positive citizen who contributes to his community.

II. CONCLUSION —

If you would like to speak to my attorney he can be contacted at:
Sanford A. Schulman, Attorney of law, 500 Griswold Street, Suite 2340
Detroit, Michigan 48226 Phone Number: (313) 963-4740

For all these reasons, this inmate respectfully ask the Warden/Executive Staff at U.S.P. Florence-High to please take official notice of the aforementioned confirmable facts supporting his sincere and heartfelt request for a compassionate Release/Reduction in Sentence pursuant to 18 U.S.C. §3582(c)(1)(A)(i) and §4205(g).

Date of Request: March 17, 2020

Respectfully Submitted,


Bernard Edmond #09837-039
U.S.P. Florence-High
P.O. Box 7000
Florence, CO. 81226

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing Request for Compassionate Release/Reduction In Sentence (RIS), has been HAND-DELIVERED TO Warden Barnhart at U.S.P. Florence-High while he was present here inside the Institution.

On this 17th day of March, 2020, pursuant to 28 U.S.C. §1746.


Bernard Edmond #09837-039

ATTACHMENT C-D

**Individualized Needs Plan - Program Review (Inmate Copy)**

SEQUENCE: 00493270

Dept. of Justice / Federal Bureau of Prisons

Team Date: 12-09-2020

Plan is for inmate: EDMOND, BERNARD THOMAS 09837-039

Facility: FLP FLORENCE HIGH USP
 Name: EDMOND, BERNARD THOMAS
 Register No.: 09837-039
 Age: 53
 Date of Birth: 04-27-1967

Proj. Rel. Date: 05-12-2059
 Proj. Rel. Mthd: GCT REL
 DNA Status: MIL06364 / 05-29-2014

Detainers

Detaining Agency	Remarks
NO DETAINER	

Pending Charges

Refer to PSI and Records Office for additional information on all pending and unknown charges.
--

Current Work Assignments

Fac	Assignment	Description	Start
FLP	CHAPEL	CHAPEL ORDERLY	09-30-2019

Current Education Information

Fac	Assignment	Description	Start
FLP	ESL HAS	ENGLISH PROFICIENT	08-31-1992
FLP	GED HAS	COMPLETED GED OR HS DIPLOMA	06-16-1993

Education Courses

SubFac	Action	Description	Start	Stop
FLP		GREEN ENERGY USP	03-11-2020	CURRENT
FLP	C	EARTH'S PLACE IN THE UNIVERSE	07-19-2019	07-22-2019
FLP	C	INTRODUCTION TO SMALL BUSINESS	08-15-2016	09-27-2016

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **	

Current Care Assignments

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	06-17-2019
CARE1-MH	CARE1-MENTAL HEALTH	01-15-2015

Current Medical Duty Status Assignments

Assignment	Description	Start
NO PAPER	NO PAPER MEDICAL RECORD	06-17-2019
REG DUTY	NO MEDICAL RESTR--REGULAR DUTY	06-17-2019
YES F/S	CLEARED FOR FOOD SERVICE	06-17-2019

Current Drug Assignments

Assignment	Description	Start
ED COMP	DRUG EDUCATION COMPLETE	06-08-2015

FRP Details

Most Recent Payment Plan					
--------------------------	--	--	--	--	--

FRP Assignment: NO OBLG FINANC RESP-NO Start: 02-21-2020

Inmate Decision: AGREED \$748.12 Frequency: QUARTERLY

Payments past 6 months: \$0.00 Obligation Balance: \$0.00

Financial Obligations

No.	Type	Amount	Balance	Payable	Status
1	ASSMT	\$1,400.00	\$554.47	IMMEDIATE	EXPIRED

** NO ADJUSTMENTS MADE IN LAST 6 MONTHS **

Payment Details



Individualized Needs Plan - Program Review (Inmate Copy)

SEQUENCE: 00493270

Dept. of Justice / Federal Bureau of Prisons

Team Date: 12-09-2020

Plan is for inmate: EDMOND, BERNARD THOMAS 09837-039

Most Recent Payment Plan

Trust Fund Deposits - Past 6 months: \$1,641.00

Payments commensurate?

New Payment Plan:

** No data **

Progress since last review

USP Florence is currently on COVID-19 quarantine lockdown.

Next Program Review Goals

Continue work on the Chapel work detail. Maintain clear conduct. Complete one ACE.

Long Term Goals

By 12/2025: Complete the NRES Drug Treatment course . Complete any 2 ACE courses of interest.

RRC/HC Placement

Comments

CSW Baca assumed DA Caseload as of July 2, 2019.

FLPID 606.00 * MALE CUSTODY CLASSIFICATION FORM * 11-16-2020
PAGE 001 OF 001 13:50:02

(A) IDENTIFYING DATA

REG NO.: 09837-039 FORM DATE: 07-05-2020 ORG: FLP
NAME....: EDMOND, BERNARD THOMAS

MGTV: NONE
PUB SFTY: GRT SVRTY,SENT LGTH MVED:

(B) BASE SCORING

DETAINER: (0) NONE SEVERITY.....: (7) GREATEST
MOS REL.: 466 CRIM HIST SCORE: (02) 3 POINTS
ESCAPES.: (0) NONE VIOLENCE.....: (0) NONE
VOL SURR: (0) N/A AGE CATEGORY...: (2) 36 THROUGH 54
EDUC LEV: (0) VERFD HS DEGREE/GED DRUG/ALC ABUSE.: (0) NEVER/>5 YEARS

(C) CUSTODY SCORING

TIME SERVED.....: (3) 0-25% PROG PARTICIPAT: (2) GOOD
LIVING SKILLS...: (2) GOOD TYPE DISCIP RPT: (5) NONE
FREQ DISCIP RPT.: (3) NONE FAMILY/COMMUN.: (4) GOOD

--- LEVEL AND CUSTODY SUMMARY ---

BASE CUST VARIANCE	SEC TOTAL	SCORED LEV	MGMT SEC	LEVEL	CUSTODY	CONSIDER
+11	+19	-3	+8	HIGH	N/A	IN DECREASE

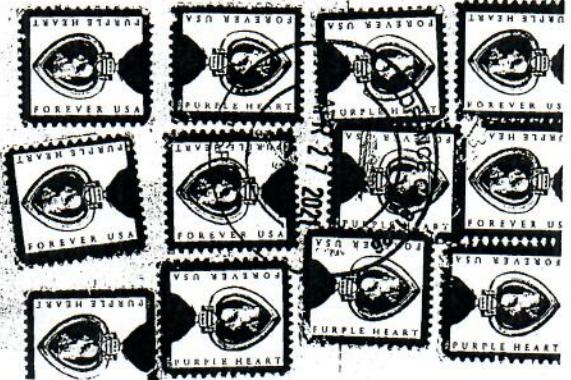
G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

60

Bernard Edmond # 09837039
United States Penitentiary - Florence
P.O. Box 7000
Florence Co. 81226



Clerk of the Court
231 W. Lafayette
Detroit Michigan 48226



CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix F: Opinion and Order Denying Defendant's Motion for
Reduction of Sentence

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,
v.

Case No. 11-20188-05

BERNARD THOMAS EDMOND,

HON. GEORGE CARAM STEEH

Defendant.

OPINION AND ORDER DENYING DEFENDANT'S
MOTION FOR REDUCTION OF SENTENCE [ECF NO. 445]

Defendant Bernard Edmond seeks compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) in the form of a reduction of his sentence. As circumstances supporting "extraordinary and compelling reasons", Edmond refers to the disparity created when Congress substantially reduced the sentencing guidelines that apply to his firearm offenses, disparities in § 924(c) sentences based on a defendant's race, and his prison record and rehabilitation efforts. For the reasons stated below, Edmond's motion for compassionate release is DENIED.

BACKGROUND FACTS

Over a six-month period in 2010, Edmond was involved in a complex conspiracy whereby he took possession of luxury vehicles which had been

carjacked, ran them through his chop shop, and then sold the vehicles. To obtain the vehicles, Edmond's co-defendants Phillip and Frank Harper typically threatened a parking lot valet with a gun while other conspirators took the keys and drove the cars away. Once the vehicles were in his possession, Edmond caused new titles to be fabricated and the appearance of the vehicles altered, before selling them. After trial, the jury convicted Edmond of 14 counts for his involvement in the conspiracy. Edmond was convicted of conspiracy to commit carjacking, three counts of carjacking, one count of attempted carjacking, three counts of using a firearm during a crime of violence in violation of 18 U.S.C. § 924(c), operating a chop shop and various crimes related to creating false identification numbers for the vehicles.

At the time of Edmond's sentencing in 2014, the statute provided for a mandatory minimum sentence of 5 years for the first § 924(c) count and a mandatory consecutive sentence of at least 25 years for each "second or subsequent" firearm violation. 18 U.S.C. § 924(c)(1)(A)(i); 18 U.S.C. § 924(c)(1)(C)(i). Therefore, the Court was constrained to issue a consecutive mandatory minimum sentence of 660 months for Edmond's three firearm counts. The Court sentenced Edmond as follows on the other counts: 60 months on the conspiracy and falsification of VIN numbers, 180

and 240 months on the various carjacking counts, and 120 months on the motor vehicles and chop shop counts. These sentences ran concurrent to each other and consecutive to the § 924(c) sentence. The result was a sentence of 900 months, or 75 years. (ECF No. 210).

Edmond filed an appeal and the Sixth Circuit affirmed his convictions and his sentence. *United States v. Edmond*, 815 F.3d 1032, 1039-40, 1048 (6th Cir. 2016). Edmond then filed a petition for Writ of Certiorari in the United States Supreme Court. His petition was granted, and the Supreme Court vacated the judgment, remanding the case to the Sixth Circuit for further consideration in light of *Dean v. United States*, -- U.S. --, 137 S.Ct. 1170 (2017). In *Dean*, the Supreme Court held that a sentencing court may consider the length of a sentence imposed by a mandatory minimum statute when calculating a sentence for the predicate counts. *Id.* On May 9, 2018, upon remand from the Sixth Circuit, this Court resentenced Edmond, reducing his sentence to one day on the eleven predicate counts after considering the length of the mandatory minimum sentence for the firearm counts. Edmond's new sentence was 660 months, or 55 years, on the three § 924(c) convictions to be served consecutively to one day on the predicate convictions. (ECF No. 311).

When Edmond filed his pending motion in April 2021, he had an appeal pending in the Sixth Circuit Court of Appeals challenging this Court's denial of his motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255. That appeal is still pending. See, *Bernard Edmond v. United States*, 20-1929.

LAW AND ANALYSIS

I. The Court's Authority to Grant Compassionate Release

Ordinarily, a district court “may not modify a term of imprisonment once it has been imposed.” 18 U.S.C. § 3582(c). The statute provides for a limited exception, known as “compassionate release,” which is governed by § 3582(c)(1)(A). Before seeking compassionate release from the court, a defendant must first “exhaust the BOP’s administrative process” or wait “thirty days after the warden has received the compassionate release request—whichever is earlier.” *United States v. Jones*, 980 F.3d 1098, 1105 (6th Cir. 2020). Exhaustion of administrative remedies is a “mandatory condition” for defendant-filed motions for compassionate release. *United States v. Alam*, 960 F.3d 831, 833 (6th Cir. 2020).

Once the exhaustion requirement has been satisfied, a court may grant a motion for judicial modification of an imposed term of imprisonment when three criteria have been met: (1) “extraordinary and compelling

reasons warrant [a sentence] reduction," (2) the reduction is consistent with the "applicable policy statements issued by the Sentencing Commission," and (3) "all relevant sentencing factors listed in 18 U.S.C. § 3553(a)" have been considered. 18 U.S.C. § 3582(c)(1)(A). However, when the defendant, rather than the BOP, files a motion for compassionate release, the court "may skip step two of the [Section] 3583(c)(1)(A) inquiry" and has "full discretion to define 'extraordinary and compelling circumstances' without consulting the policy statement in [U.S.S.G.] § 1B1.13." *Jones*, 980 F.3d at 1111. The district court may deny a motion for compassionate release upon finding that a defendant fails to meet any of the applicable criteria and does not need to address the other factors before denying the motion. *United States v. Elias*, 984 F.3d 516, 519 (6th Cir. 2021).

II. Exhaustion

Edmond filed a request for compassionate release with the BOP on March 17, 2020. Thirty days passed without a response from the warden. Edmond has therefore exhausted his administrative remedies before the BOP.

III. Extraordinary and Compelling Reasons

Edmond makes several arguments in support of his request for compassionate release in the form of a reduction of his sentence. Edmond

points to the First Step Act's changes to § 924(c)'s sentencing structure, which result in dramatic reductions in mandatory minimum sentences issued after the statute's enactment. Because the changes do not apply retroactively, there are large disparities between defendants sentenced for the same offense before and after the change in law. Edmond argues that this provides an extraordinary and compelling reason under § 3582(c)(1)(A), especially when viewed together with the disproportionate imposition of § 924(c) sentences on African American men, as well as the disparity between his lengthy sentence and the average sentence issued for other serious crimes. Finally, he contends that post-sentencing developments, including his rehabilitation efforts, provide an extraordinary and compelling reason for granting a sentence reduction. The Court addresses each argument in turn.

Approximately seven months after Edmond was re-sentenced, Congress passed the First Step Act which, among other things, amended § 924(c) to eliminate the "stacking" of mandatory sentences for successive violations charged in the same indictment. Under the First Step Act, a 25-year sentence for a second § 924(c) conviction may only be imposed for defendants who have been convicted previously of violating § 924(c). First Step Act of 2018, Pub. L. No.115-391, § 403, 132 Stat. 5194, 5221-22

(2018); 18 U.S.C. § 924(c)(1)(C). If Edmond had been sentenced or even re-sentenced after the First Step Act was enacted, he would face a mandatory minimum sentence on the firearm convictions of 15 years (5 years for each of his three firearm convictions), rather than 55 years. 18 U.S.C. § 924(c)(1)(A). However, Congress did not make the First Step Act apply retroactively to defendants like Edmond who had already been sentenced.

There have been several decisions issued by the Sixth Circuit related to motions for compassionate release involving nonretroactive changes in the law while Mr. Edmond's motion has been pending. This Court delayed ruling on Edmond's motion, believing that the Sixth Circuit would clarify the intra-circuit split over whether a nonretroactive change in sentencing law can support a finding of "extraordinary and compelling" reasons under § 3582(c)(1)(A). See e.g. *United States v. Owens*, 996 F.3d 755, 760 (6th Cir. 2021) (distinguishing *Tomes*¹ and *Wills*² and "[holding] that, in making an individualized determination about whether extraordinary and compelling reasons merit compassionate release, a district court may include, along with other factors, the disparity between a defendant's actual

¹ *United States v. Tomes*, 990 F.3d 500 (6th Cir. 2021).

² *United States v. Wills*, 991 F.3d 720 (6th Cir. 2021).

sentence and the sentence that he would receive if the First Step Act applied."); *United States v. Jarvis*, 999 F.3d 442 (6th Cir. 2021) (holding, based on *Tomes* and *Wills*, that a district court lacks the authority to reduce a defendant's sentence based on a non-retroactive change in the law, whether alone or in combination with other factors); *United States v. Hunter*, 12 F.4th 555 (6th Cir. 2021) (extending the holding and reasoning of *Jarvis* relating to nonretroactive changes in statutes to cases involving nonretroactive judicial decisions); *United States v. McCall*, 20 F.4th 1108, 1116 (6th Cir. 2021) ("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).").

At Edmond's sentencing and re-sentencing, the Court was bound by the statutory mandatory minimum sentence applicable to his § 924(c) counts. Today the Court remains frustrated because it lacks clear guidance whether it can consider the nonretroactive change in the statute in its assessment of whether extraordinary and compelling circumstances exist such that Mr. Edmond may qualify for a reduction to a portion of his lengthy sentence.

In addition to the disparity between his sentence and one imposed for the same crimes after the First Step Act, Edmond maintains that he is harmed by the “disproportionate imposition of pre-First Step Act § 924(c) sentence[s] on African American men.” ECF No. 445, PageID.5805. He also contends that his sentence is “decades longer than sentences imposed on average for offenses that [are] at least as, if not more, serious than his offenses.” *Id.* Edmond offers no support or explanation for either of these arguments.

Finally, Edmond cites his rehabilitative efforts as a basis for relief. While rehabilitative efforts are relevant to a discussion of the § 3553(a) factors, Congress has made it clear that “[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” 28 U.S.C. § 994(t).

Given the constraints on what factors can be considered, the Court does not find that Edmond’s circumstances rise to the level of extraordinary and compelling. Upon finding that Edmond fails to meet the applicable criteria to show the existence of extraordinary and compelling circumstances, the Court is not obligated to address the other factors before denying his motion. *Elias*, 984 F.3d at 519.

IV. The Court’s Jurisdiction

In his appeal pending in the Sixth Circuit, Edmond seeks to have his convictions overturned and his sentence vacated, while in his motion for compassionate release he seeks a reduction to his sentence. Once an appeal has been filed, "adjudicatory authority over any aspect of the case. . . involved in the appeal" generally shifts to the court of appeals. *United States v. Carman*, 933 F.3d 614, 615 (6th Cir. 2019). However, Federal Rule of Criminal Procedure 37 provides that, "[i]f a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may: (1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue." Fed. R. Crim. P. 37(a). The Court therefore has authority to deny defendant's motion to reduce sentence.

Although the Court denies Edmond's request for relief, the question can be renewed if the Sixth Circuit or the United States Supreme Court indicates that district courts may consider the nonretroactive changes made to § 924(a) sentencing, or any of the other reasons argued by Edmond.

CONCLUSION

For the reasons stated above,

IT IS HEREBY ORDERED that defendant's motion to reduce sentence (ECF No. 445) is DENIED.

Dated: April 21, 2022

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 21, 2022, by electronic and/or ordinary mail and also on Bernard Thomas Edmond #09837-039, USP Florence – High, U.S. Penitentiary, P.O. Box 7000, Florence, CO 81226.

s/Brianna Sauve
Deputy Clerk

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix G: Notice of Appeal

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 11-cr-20188
Hon. GEORGE CARAM STEEH

BERNARD THOMAS EDMOND,

Defendant.

/

NOTICE OF APPEAL

Notice is hereby given that defendant BERNARD THOMAS EDMOND appeals to the United States Court of Appeals for the Sixth Circuit from the Opinion and Order Denying Defendant's Motion for Reduction of Sentence, entered in this action on April 21, 2022 at ECF No. 475

Respectfully submitted,

/s/ Sanford A. Schulman
SANFORD A. SCHULMAN
Appointed Counsel for Defendant
BERNARD THOMAS EDMOND
500 Griswold Street, Suite 2340
Detroit, MI 48226
(313) 963-4740
Email: saschulman@comcast.net

Date: May 16, 2022

EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 11-cr-20188
Hon. GEORGE CARAM STEEH

BERNARD THOMAS EDMOND,

Defendant.

/

CERTIFICATE OF SERVICE

I certify that on May 16, 2022, I electronically filed the foregoing document, Notice of Appeal, with the Clerk of the Court using the ECF system, which will send notification of such filing to Jerome F. Gorgon, Esq., Assistant U.S. Attorney, and all ECF-registered counsel of record.

Respectfully submitted,

/s/ Sanford A. Schulman
SANFORD A. SCHULMAN
Appointed Counsel for Defendant
BERNARD THOMAS EDMOND
500 Griswold Street, Suite 2340
Detroit, MI 48226
(313) 963-4740
Email: saschulman@comcast.net

Date: May 16, 2022

CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff-Petitioner,

vs.

BERNARD THOMAS EDMOND,

Defendant-Respondent,

Appendix: H: Opinion of Sixth Circuit Court of Appeals, United States of America vs. Bernard Edmond, Case No. 22-1443

NOT RECOMMENDED FOR PUBLICATION
File Name: 23a0244n.06

Case No. 22-1443

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
BERNARD EDMOND,
Defendant-Appellant.

FILED
May 31, 2023
DEBORAH S. HUNT, Clerk

) ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF MICHIGAN

) O P I N I O N

Before: BOGGS, GIBBONS, and McKEAGUE, Circuit Judges.

McKEAGUE, Circuit Judge. Defendant Bernard Edmond was convicted of various crimes related to carjacking, including firearms offenses under 18 U.S.C. § 924(c). He appeals the district court's denial of his motion for sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A). Edmond argues that the disparity between his sentence and the one he would have received had he been sentenced seven months later (after the passage of the First Step Act), along with racial disparities in § 924(c) sentences, his allegedly minor role in the offense, and his prison record and rehabilitation efforts, constitute "extraordinary and compelling reasons" such that sentence reduction is warranted. Because courts may not consider nonretroactive changes in the law in considering a § 3582(c)(1)(A) motion, and because Edmond's other arguments are insufficient on their own to warrant a reduction in his sentence, we affirm.

Case No. 22-1443, *United States v. Edmond*

I.

In 2013, Defendant Bernard Edmond was convicted of three carjackings and one attempted carjacking, in violation of 18 U.S.C. § 2119(1); using a firearm during and in relation to a crime of violence for each carjacking offense, in violation of 18 U.S.C. § 924(c); conspiracy to commit the carjackings, in violation of 18 U.S.C. § 371; and operating a chop shop/various crimes related to the theft and resale of the stolen vehicles, violating 18 U.S.C. §§ 511, 2312, 2321, 2322. He was initially sentenced to 900 months. Edmond filed an appeal (unrelated to this one) that reached the Supreme Court, which vacated the judgment and remanded for reconsideration in light of *Dean v. United States*, 581 U.S. 62 (2017). See *Edmond v. United States*, 137 S. Ct. 1577 (2017) (Mem.). As a result of that remand, Edmond was resentenced on May 2, 2018, to one day each for his eleven non-§ 924(c) convictions and the mandatory minimum 660 months for his § 924(c) convictions. On April 27, 2021, he filed a motion for compassionate release in the form of sentence reduction under 18 U.S.C. § 3582(c)(1)(A). Edmond argued that he was entitled to a reduction based mainly on the disparity between the sentence he received and the one he would have received after the First Step Act was passed seven months after his resentencing.¹ Edmond also argued that he was entitled to a reduction based on racial sentencing disparities, the disparity between the length of his sentence and the average sentence given for other serious crimes, and his

¹ As the district court aptly described, the First Step Act:

amended § 924(c) to eliminate the “stacking” of mandatory sentences for successive violations charged in the same indictment. Under the First Step Act, a 25-year sentence for a second § 924(c) conviction may only be imposed for defendants who have been convicted previously of violating § 924(c). If Edmond had been sentenced or even re-sentenced after the First Step Act was enacted, he would face a mandatory minimum sentence on the firearm convictions of 15 years (5 years for each of his three firearm convictions), rather than 55 years.

R. 475 at PID 6007-08 (internal citations omitted).

Case No. 22-1443, *United States v. Edmond*

rehabilitative efforts. On April 21, 2021, the district court denied the motion, declining to consider in its analysis the nonretroactive change in law created by the First Step Act, noting:

[T]he Court remains frustrated because it lacks clear guidance whether it can consider the nonretroactive change in the statute in its assessment of whether extraordinary and compelling circumstances exist such that Mr. Edmond may qualify for a reduction to a portion of his lengthy sentence.

R. 475 at PID 8. The district court dismissed Edmond’s other arguments as unsupported or insufficient. *Id.* Edmond appealed.²

II.

We review the denial of a motion seeking a sentence reduction under 18 U.S.C. § 3582(c)(1)(A) for abuse of discretion. *United States v. McKinnie*, 24 F.4th 583, 586 (6th Cir. 2022). An abuse of discretion occurs when the district court “applies the incorrect legal standard, misapplies the correct legal standard, or relies upon clearly erroneous findings of fact.” *Id.* (quoting *United States v. Moore*, 582 F.3d 641, 644 (6th Cir. 2009)). This standard is “deferential.” *United States v. Jones*, 980 F.3d 1098, 1112 (6th Cir. 2020). “A court might abuse its discretion, for example, if it misreads the meaning of the extraordinary-reason requirement or if it interprets the law to bar it from granting a reduction when, in fact, it has discretion to do so.” *Id.* (cleaned up). A district court may grant a sentence reduction under § 3582(c)(1)(A) where “extraordinary and compelling reasons” support a reduction and reduction is consistent with the applicable § 3553(a) factors. *United States v. Ruffin*, 978 F.3d 1000, 1004–05 (6th Cir. 2020).

Edmond primarily argues that the disparity between his sentence and the one he would have received had he been sentenced after the passage of the First Step Act constitutes an “extraordinary and compelling” reason to reduce his sentence. He spends much of his appellate

² The United States affirmatively waived any objection to the timeliness of Edmond’s appeal. *See* Appellee’s Br. at 10, n.1; *United States v. Payton*, 979 F.3d 388, 390 (6th Cir. 2020).

Case No. 22-1443, *United States v. Edmond*

brief describing the conflict that previously existed within the Sixth Circuit regarding whether courts may consider nonretroactive changes in the law in analyzing whether “extraordinary and compelling” reasons for a sentence reduction exist under 18 U.S.C. § 3582(c)(1)(A). *See* Appellant’s Br. at 23–25; *see also* *United States v. McCall*, 56 F.4th 1048 (6th Cir. 2022) (en banc) (describing the “intractable intra-circuit split” on this issue (cleaned up)). Unfortunately for Edmond, this Court, sitting en banc in *United States v. McCall*, squarely foreclosed that argument.³ 56 F.4th at 1055. In that case, we held that “nonretroactive changes in sentencing law cannot be ‘extraordinary and compelling reasons’ that warrant relief.” *Id.*

Edmond admits that “Congress did not make the First Step Act apply retroactively” and that the Act constitutes a “nonretroactive change in sentencing law.” Appellant’s Br. at 9; *see also* *United States v. Jarvis*, 999 F.3d 442, 444 (6th Cir. 2021) (“Congress explained that § 403 of the [First Step] Act (which amended § 924(c)) ‘shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.’” (quoting First Step Act, § 403(b))). Thus, the district court was correct that it cannot consider the First Step Act’s changes to § 924(c) in analyzing whether Edmond has sufficiently extraordinary and compelling reasons for sentence reduction.

With that argument failing, all we are left with are Edmond’s other, scantly delineated reasons for sentence reduction. Edmond puts forth, with very little detail, a few additional arguments, including (1) the “disproportionate imposition of pre-First Step Act § 924(c) sentence[s] on African American men,” (2) “his minor role in the offense,” (3) “his lack of significant prior criminal history,” (4) his “strong family support” and “work history,” (5) “his

³ The *McCall* en banc decision was released after Edmond’s brief was filed. The government’s brief was filed after the decision, following an order holding the briefing in abeyance pending the opinion’s release. Edmond did not file a reply brief.

Case No. 22-1443, *United States v. Edmond*

already-substantial years of incarceration,” and (6) “his exemplary behavior and rehabilitation in prison.” Appellant’s Br. at 10–11, 21. None of these reasons is sufficient—alone or combined—to merit sentence reduction.

First, while Edmond mentions racial disparities in pre-First Step Act § 924(c) sentencing, he cites no support in case law or elsewhere for this contention and does not develop the argument any further than merely stating it. Indeed, the district court dismissed this argument as having “no support or explanation,” R. 475 at PID 6010, and Edmond has not elaborated on the argument on appeal. This argument is thus undeveloped, and is therefore waived. *See General Star Nat'l Ins. Co. v. Administratia Asigurarilor de Stat*, 289 F.3d 434, 441 (6th Cir. 2002). Second, putting aside the truth of Edmond’s contentions that his role in the offense was minor and his criminal history was insignificant,⁴ such facts—along with his “work history” and “strong family support”—already existed at the time of sentencing and thus cannot be considered extraordinary and compelling reasons to reduce his sentence. *See United States v. Hunter*, 12 F.4th 555, 562 (6th Cir. 2021); *United States v. Lemons*, 15 F.4th 747, 750 (6th Cir. 2021). Third, it is not clear what Edmond means when he refers to his “already-substantial years of incarceration,” and he does not elaborate on this statement at all. Appellant’s Br. at 21. Because he apparently did not make this argument before the district court, and because he fails to develop this argument here beyond simply stating it, we deem it waived. *See Johnson v. Ford Motor Co.*, 13 F.4th 493, 503–04 (6th Cir. 2021); *General Star*, 289 F.3d at 441. Finally, “[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” 28 U.S.C. § 994(t); *see also McCall*,

⁴ The district court at Edmond’s original sentencing noted that “the role that’s been played by Mr. Edmond that has developed in the testimony[] supports the idea of assigning him a leadership role,” R. 235 at PID 4143, as well as Edmond’s criminal history, including the fact that he was on probation for “another chop shop offense” when he committed the crimes at issue here, *id.* at 4135.

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56 F. 4th at 1051. Thus, Edmond has not put forward any sufficiently extraordinary and compelling reason to reduce his sentence, and he has therefore failed to demonstrate that the district court abused its discretion in denying his motion for sentence reduction.

III. CONCLUSION

In sum, we AFFIRM the district court's denial of Edmond's motion to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A).