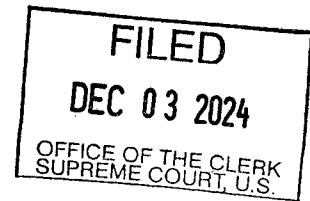


24 - 6894

No. \_\_\_\_\_



IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
WILLIAM J. WISE — PETITIONER  
(Your Name)

vs.

UNITED STATES OF AMERICA— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William J, Wise, pro se

Register No. 17168-111

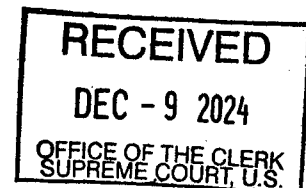
(Your Name)

FCI- Oxford / P.O. BOX 1000

(Address)

Oxford, WI 53952

(City, State, Zip Code)



## QUESTION(S) PRESENTED

I. Whether the District Court establish an improperly high standard for demonstrating "serious deterioration in physical or mental health because of the aging process" by requiring more than documented chronic conditions and expert medical recommendation, and does this conflict with the **First Step Act's** intent to expand compassionate release?

II. Whether placing a Care Level 4 inmate in a Care Level 1 facility that lacks adequate medical resources constitute "deliberate indifference" to serious medical needs under the **Eighth Amendment**, particularly when multiple documented health conditions remain untreated?

III. Whether a district court's dismissal of a BOP regional doctor's explicit compassionate release recommendation for a 73-year-old inmate with multiple documented untreated conditions requires this Court's review when: (1) the court imposed extra-statutory requirements by requiring the doctor to demonstrate legal expertise, when **18 U.S.C. § 3582(c)(1)(A)** and **USSG § 1B1.13** do not mandate such expertise from medical professionals, and (2) the court's conclusory **18 U.S.C. § 3553(a)** analysis failed to adequately address the presumption of extraordinary and compelling reasons created by advanced age, systematic denial of specialist care, and

deteriorating health conditions?

IV. Whether the district court's reliance on a single clinical notation that the inmate was "alert, oriented and in no distress" override substantial evidence of multiple chronic medical conditions, (in light of **USSG § 1B1.13(b)(1)(C)**), constitute an abuse of discretion in compassionate release determinations?

## **LIST OF PARTIES**

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

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## **RELATED CASES**

UNITED STATES OF AMERICA v. WILLIAM J. WISE

Unpublished / case no. 3:12-cr-00111-EMC 1/16/2024

Docket Nos. 327/334

UNITED STATES OF AMERICA v. WILLIAM J. WISE

Unpublished / Case No. 22-16165 (originated from case #24-383) 9/13/2024

Docket Nos. 70-1 / see pages 4 & 5 of

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(September 13, 2024)

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<sup>1/</sup> These statutes are what the Petitioner pled to and are not raised as an issue in this Petition.

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<sup>2/</sup> These statutes are the jurisdiction of this Court and not raised as an issue in this Petition.

<sup>3/</sup> These statutes are what the Petitioner raised in post-conviction litigation and are not an issue herein.

IN THE  
SUPREME COURT OF THE UNITED  
STATES PETITION FOR WRIT OF  
CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or, ☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or, ☐ is unpublished.



## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was  
September 13, 2024.

The Petitioner seeks a Writ of Certiorari specifically to challenge the Ninth Circuit's denial of his Compassionate Release motion in Case No. 24-383.

To clarify the procedural history: The Ninth Circuit issued a single order that addressed two separate matters:

1. The denial of Petitioner's pro se motion for Compassionate Release [Case No. 24-383];
2. The denial of Petitioner's 28 U.S.C. § 2255 motion to amend, which was filed by CJA attorney Geoff Jones [Case No. 16165].

This Writ of Certiorari petition concerns only the Compassionate Release denial [24-383].

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_\_ A \_\_\_\_\_.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

The jurisdiction of this Court is invoked under **28 U. S. C. § 1257(a)**.

## CONSTITUTIONAL PROVISIONS INVOLVED

### U.S. Constitution Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## STATUTORY PROVISIONS INVOLVED

### 18 U.S.C. § 3553(a)

#### Imposition of a sentence

(a) Factors to be considered in imposing a sentence. The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for—

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section **994(a)(1)** of title **28**, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section **994(p)** of title **28**); and

(ii) that, except as provided in section **3742(g)** [**18 USCS § 3742(g)**], are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant

to section **994(a)(3) of title 28**, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section **994(p) of title 28**);

(5) any pertinent policy statement—

(A) issued by the Sentencing Commission pursuant to section **994(a)(2) of title 28**, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section **994(p) of title 28**); and

(B) that, except as provided in section **3742(g) [18 USCS § 3742(g)]**, is in effect on the date the defendant is sentenced [;]

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

#### **18 U.S.C. § 3582(c)(1)(A)(i)**

(c) Modification of an imposed term of imprisonment. The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section **3553(a) [18 USCS § 3553(a)]** to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction.

#### **USCS § 1B1.13**

U.S. Sentencing Guidelines Manual § **1B1.13** allows a sentence reduction for extraordinary and compelling reasons only if the reasons are consistent with this policy statement. § **1B1.13(1)(A), (3). Section 1B1.13, cmt., application n. 1**

explains that extraordinary and compelling reasons exist under any of the circumstances set forth below, which include only: (a) a defendant suffering from a terminal illness or other medical condition that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover; (b) a defendant at least 65 years old who is experiencing a serious deterioration in physical or mental health because of the aging process and has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less;

(c) a defendant who has minor children without a caregiver or with an incapacitated spouse or partner who needs the defendant to be the caregiver; or (d) as determined by the Director of the Bureau of Prisons, an extraordinary and compelling reason other than, or in combination with, the above reasons. § **1B1.13, cmt., application n. 1(A)-(D).**

#### **USSG 1B1.13(b)(1)(C)**

(b) Extraordinary and compelling reasons. Extraordinary and compelling reasons exist under any of the following circumstances or a combination thereof:

(1) Medical circumstances of the defendant.

(C) The defendant is suffering from a medical condition that requires long-term or specialized medical care that is not being provided and without which the defendant is at risk of serious deterioration in health or death.

#### **USSG 1B1.13(b)(2)(C)**

Age of the Defendant. The defendant (A) is at least 65 years old; (B) is experiencing a serious deterioration in physical or mental health because of the aging process; and (C) has served at least 10 years or 75% of his or her term of imprisonment, whichever is less.

#### **USSG 1B1.13(b)(d)**

Rehabilitation of the defendant. Pursuant to **28 U.S.C. § 994(t)**, rehabilitation of the defendant is not, by itself, an extraordinary and compelling reason for purposes of this policy statement. However, rehabilitation of the defendant while serving the sentence may be considered in combination with other circumstances in determining whether and to what extent a reduction in the defendant's term of imprisonment is warranted.

#### **USSG § 1B1.13 Application Note 1(D)**

The application notes to the policy statement provide that a defendant's medical

condition, age, or family circumstances may, under certain circumstances, serve as "extraordinary and compelling" reasons for compassionate release. **USSG § 1B1.13, Application Note 1(A)-(C)**. The application notes also include a catchall provision, which states that "other reasons" may be sufficient where "there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons described in [the enumerated subdivisions]." **USSG § 1B1.13, Application Note 1(D)**.

### **First Step Act of 2018:**

1. Expands early release opportunities and good time credits for federal inmates
2. Reduces certain mandatory minimum sentences
3. Gives judges more discretion in sentencing for some drug offenses
4. Improves prison conditions, including prohibiting the shackling of pregnant women
5. Requires inmates to be placed in facilities closer to their families when possible

The First Step Act significantly expanded Compassionate Release provisions by:

1. Allowing inmates to petition courts directly for release after exhausting administrative remedies with the Bureau of Prisons (BOP). Previously, only the BOP could file these motions.
2. Expanding qualifying circumstances for release to include:
  - Terminal illness
  - Advanced age
  - Serious physical/medical conditions
  - Family caregiving needs
  - Other "extraordinary and compelling" reasons
3. Removing the BOP as the gatekeeper for these requests, which historically had rarely approved such releases
4. Setting time limits for BOP to respond to inmate requests (30 days), after which inmates can file directly with courts.

## STATEMENT OF THE CASE

1. In 2012, the Petitioner pleaded guilty to multiple offenses, including mail fraud, wire fraud, conspiracy to commit mail and wire fraud, and money laundering, in violation of **18 U.S.C. §§ 1341, 1343, 1349, and 1957** (Case No. 12-CR-00111 EMC), as well as tax evasion under **26 U.S.C. § 7201** (Case No. 12-CR-00642-EMC). In 2015, the district court sentenced the Petitioner to 262 months of imprisonment and issued a restitution order in 2016 for both cases.

2. On February 3, 2016, the Petitioner filed a motion to vacate his sentence under **28 U.S.C. § 2255(a)**, claiming violations of his Sixth Amendment right to counsel due to his attorney's conflict of interest and ineffective representation regarding cooperation with the government prior to sentencing. The Petitioner also alleged that the government breached the plea agreement. The district court initially scheduled an evidentiary hearing to consider these claims (Dkt #195) but later granted the government's motion for reconsideration (Dkt #208) and denied the § 2255 motion without a hearing (Dkt #209). The Ninth Circuit Court of Appeals affirmed this ruling in Appeal No. 17-15129 (Dkt 213).

3. In 2019, the Petitioner filed a motion to vacate his conviction under **Federal Rule of Civil Procedure 60(b)**. The district court construed this filing as a second or successive § 2255 petition and denied the motion, but later issued a certificate of appealability following the Ninth Circuit's remand order after the Petitioner filed a

notice of appeal (Dkt. 2 in C.A. No. 20-15062).

4. During the COVID-19 pandemic, the Petitioner requested compassionate release under **18 U.S.C. § 3582(c)(1)(A)** and sought a transfer to a correctional facility in Canada, asserting that the government breached the plea agreement by not facilitating his transfer. He also filed for leave to amend his original **§ 2255** motion. The district court held a hearing on these requests and ultimately denied all of them, including the amendment to his **§ 2255** motion.

In 2022, the Petitioner appealed the district court's orders, leading to the Ninth Circuit docketing Appeal No. 22-16165 regarding the **§ 2255** motion and No. 23-10008 for the compassionate release motion. The government moved for summary affirmance on the compassionate release appeal, which the court granted (Fernandez, Friedland, and H. A. Thomas, JJ) (Dkt. 7 in C.A. No. 23-10008).

5. For the appeal concerning the **§ 2255** motion, the district court granted a certificate of appealability on whether the Petitioner's counsel was ineffective in negotiating and explaining the plea agreement (Dkt. 3 in C.A. No. 22-16165).

6. The government subsequently moved to dismiss the appeal. The Appellate Court denied this motion without prejudice, appointed counsel for the Petitioner, and reset the briefing schedule (Fitzgerald, Appellate Commissioner) (Dkt. 9, 12 in C.A. No. 22-16165). The appointed counsel submitted the opening brief on October 6, 2023, after which the government renewed its motion to dismiss, which

was again denied without prejudice to raising arguments in a responsive brief (Dkt. 29, 36, 39).

While Appeal No. 22-16165 was pending, the Petitioner filed another motion for compassionate release in the district court in November 2023, which was denied on January 16, 2024, (see **Appendix B**).

7. Relevant excerpts from the district court's order regarding the compassionate release motion indicate that the Petitioner requested release under **18 U.S.C. § 3582(c)(1)(A)** and **USSG §§ 1B1.13(b)(1)(C), 1B1.13(b)(2)(C), and 1B1.13(b)(d)**.

The district court judge's reasoning was contradictory, leading to confusion about the denial. Specifically, Judge Chen stated that the Petitioner had demonstrated extraordinary and compelling circumstances. However, he also noted that while the Bureau of Prisons (BOP) addressed the Petitioner's medical issues, the Petitioner did not prove a risk of serious health deterioration or death. The most recent medical record indicated that the Petitioner was evaluated for various conditions and was "alert, oriented, and in no distress" (see **Appendix D**, Dr. Pass's medical report).

8. The Petitioner filed a notice of appeal on January 22, 2024, which was assigned to the Ninth Circuit Court of Appeals as Docket No. 24-383.

9. The Petitioner is proceeding pro se in the appeal concerning compassionate release (Dkt. 6 in C.A. No. 24-383).



10. On September 13, 2024, the Ninth Circuit denied both of the Petitioner's appeals. Appeal No. 22-16165 was submitted for rehearing en banc by the appointed counsel and is not part of this request for a writ of certiorari.

## **STATEMENT OF MEDICAL FACTS**

The Petitioner suffers from the following and presented the following medical issues to the district and appellate courts as grounds for compassionate release under 18 U.S.C. § 3582(c)(1)(A) and USSG §§ 1B1.13(b)(1)(C), 1B1.13(b)(2)(C), and 1B1.13(b)(d):

### **1. Medical Conditions:**

- Shortness of breath and circulatory problems.
- Hypertension.
- Enlarged prostate, accompanied by recurrent urinary tract infections.
- Glaucoma, characterized by extremely high pressure in the right eye, loss of vision, and daily blurriness.
- Right-side hernia.
- Gastroesophageal reflux disease (GERD), which has gone untreated for several years.
- Need for total joint replacements in the right hip, right knee, and left knee; currently reliant on a wheelchair for mobility.
- Significant hearing loss.

### **2. Pre-Sentence Report Findings:**

- The 2014 Pre-Sentence Report explicitly noted the necessity for replacement of the Petitioner's right knee and right hip. Petitioner was not provided a copy of PSR due to BOP restrictions.

### **3. Care Level Discrepancy:**

- The Petitioner is currently classified in a Care Level 1 facility, while his needs reflect a Care Level 4 status.

#### **4. Medical Duty Status:**

- The Medical Duty Status Report (**Appendix 14**) indicates:
  - Care Level 4 due to the need for arthroplasty and functional limitations due to physical impairments.
  - Work restriction limitations.
  - Not medically cleared for work.

#### **5. Medical Recommendations:**

- Dr. Reginald Pass, the BOP's regional physician, conducted a thorough examination of the Petitioner on December 5, 2023, and has recommended compassionate release (**Appendix 22**).

#### **6. Canceled Medical Appointments:**

- Prior to the Petitioner's transfer from FCI Bastrop, several critical medical appointments were scheduled but subsequently canceled:
  - Cardiologist: Appointment approved for shortness of breath and circulatory issues.
  - Urologist: TURP procedure completed on May 9, 2023; multiple urinary tract infections noted; appointment approved.
  - Audiologist: Preliminary hearing test indicated significant hearing loss; appointment approved.
  - Ophthalmologist: Appointment arranged with a glaucoma specialist due to ongoing vision issues.
  - Surgeon: Appointment approved for evaluation of a right-side hernia.
  - Gastroenterologist: Needed endoscopy for nearly four years; appointment approved; colonoscopy also required.

## REASONS FOR GRANTING THE PETITION

### I. Resolution of a Conflict in the Application of the Compassionate Release Statute:

- The district court's contradictory acknowledgment of "extraordinary and compelling circumstances" while denying compassionate release raises significant legal questions about the proper interpretation and application of **18 U.S.C. § 3582(c)(1)(A)**. This inconsistency undermines the statute's intent and creates uncertainty in its application.

#### a. "Extraordinary and Compelling" Definition

- Second, Fourth, and Seventh Circuits: District courts have discretion to determine what constitutes "extraordinary and compelling" reasons beyond **USSG 1B1.13**.

- Eleventh Circuit: Courts are bound by the specific categories in **USSG 1B1.13**.

- Third Circuit: Split on whether changes in sentencing law can constitute extraordinary and compelling reasons.

- Second Circuit: **United States v. Brooker**, 976 F.3d 228, 230 (2d Cir. 2020).

This case reflects that dichotomy. The **First Step Act** provision we analyze overturned over 30 years of history, but at the same time it often did no more than shift discretion from the Bureau of Prisons ("BOP") to the courts. We must today

decide whether the First Step Act empowered district courts evaluating motions for compassionate release to consider any extraordinary and compelling reason for release that a defendant might raise, or whether courts remain bound by U.S.

Sentencing Guidelines Manual ("Guidelines" or "USSG.") § 1B1.13 **Application Note 1(D)** ("**Application Note 1(D)**"), which makes the Bureau of Prisons the sole arbiter of whether most reasons qualify as extraordinary and compelling. Because we hold that **Application Note 1(D)** does not apply to compassionate release motions brought directly to the court by a defendant.

- Fourth Circuit: **United States v. McCoy**, 981 F.3d 271, 276-77 (4th Cir. 2020). **3582(c)(1)(A)(i)** does not attempt to define the "extraordinary and compelling reasons" that might merit compassionate release. Instead, the Sentencing Commission, pursuant to authority granted it by Congress, see **28 U.S.C. § 994(t)**; see also **Id. § 994(a)(2)(C)**, addressed the issue in a policy statement, United States Sentencing Guideline § 1B1.13. The Commission first issued its policy statement in 2006 and last updated it in November 2018, before the First Step Act. Accordingly, it is directed at BOP requests for sentence reductions: "Upon the motion of the Director of the Bureau of Prisoners," it provides, a court may reduce a sentence if, after considering the § 3553(a) sentencing factors, it determines that "extraordinary and compelling reasons warrant the reduction," that the defendant is not a danger to the community, and that the reduction is consistent with the instant policy statement.

## USSG § 1B1.13.

Finally, in an application note, the Commission sets out four categories of "extraordinary and compelling reasons." The first three establish specific circumstances under which such reasons exist, having to do with a defendant's medical condition, health and age, and family circumstances. See **USSG § 1B1.13 cmt. n.1(A)-(C)**. Fourth, and most important to this case, is the so-called "catch-all" category, located at **Application Note 1(D)** and labeled "Other Reasons," which permits a sentence reduction if "there exists in the defendant's case an extraordinary and compelling reason other than" the above-listed reasons — but only "[a]s determined by the Director of the Bureau of Prisons." **Id. cmt. n.1(D)**.

- Seventh Circuit: **United States v. Gunn**, 980 F.3d 1178, 1181 (7th Cir. 2020) Like the district court, we hope that the Sentencing Commission's ability to revise its guidelines and policy statements will be restored by the appointment of additional members. Until that happens and §1B1.13 is amended, however, the Guidelines Manual lacks an "applicable" policy statement covering prisoner-initiated applications for compassionate release. District judges must operate under the statutory criteria—"extraordinary and compelling reasons"—subject to deferential appellate review.

- Eleventh Circuit: **United States v. Bryant**, 996 F.3d 1243, 1251-52 (11th Cir. 2021). § 3582(c)(1)(A) —allows a court to reduce a sentence for extraordinary

and compelling reasons. But **§ 3582(c)(1)(A)** allows a sentence reduction only if "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission," one of which must define "extraordinary and compelling reasons," **28 U.S.C. § 994(t)**. See also **28 U.S.C. § 994(a)(2)**. The Commission published its definition at **USSG § 1B1.13** in its policy statement titled "Reduction in Term of Imprisonment Under **18 U.S.C. § 3582(c)(1)(A)**." **USSG § 1B1.13**.

The answer to whether the Commission's definition of "extraordinary and compelling reasons" binds district courts is clear. Indeed, both the Supreme Court and this Court have held that Congress's consistent-with requirement makes the relevant policy statements binding on district courts. See **Dillon v. United States**, 560 U.S. 817, 826-27, 130 S. Ct. 2683, 177 L. Ed. 2d 271 (2010); **United States v. Colon**, 707 F.3d 1255, 1262 (11th Cir. 2013). But parts of the current policy statement are in tension with the FSA. For example, the policy statement still opens with the prefatory clause "[u]pon motion of the Director of the Bureau of Prisons under **18 U.S.C. § 3582(c)(1)(A)**" and later states that "[a] reduction under this policy statement may be granted only upon motion by the Director of the Bureau of Prisons pursuant to **18 U.S.C. § 3582(c)(1)(A)**." **USSG § 1B1.13 & cmt. n.4**. Some argue that other parts of **1B1.13** are also in tension with the FSA—mainly, **Application Note 1(D)**, which describes the fourth category of extraordinary and compelling reasons as any unlisted reason that the BOP puts forward. This debate

has spawned two questions: (1) Is **1B1.13** an applicable policy statement for defendant-filed Section **3582(c)(1)(A)** motions? (2) If it is, how does a court apply **Application Note 1(D)** to a motion like **Bryant's**?

- Third Circuit split: **United States v. Andrews**, 12 F.4th 255, 260 (3d Cir. 2021), the District Court did not err when it consulted the text, dictionary definitions, and the policy statement to form a working definition of "extraordinary and compelling reasons." Given that the compassionate-release statute does not define "extraordinary and compelling reasons," the court looked to those resources to give shape to the otherwise amorphous phrase. That was not error. "We look to dictionary definitions to determine the ordinary meaning of a word . . . with reference to its statutory text." **Bonkowski v. Oberg Indus., Inc.**, 787 F.3d 190, 200 (3d Cir. 2015). And courts may consider an extrinsic source like the policy statement if, like here, it "shed[s] a reliable light on the enacting Legislature's understanding of [an] otherwise ambiguous term[]." **Exxon Mobil Corp. v. Allapattah Servs., Inc.**, 545 U.S. 546, 568, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005).

#### **b. Rehabilitation Consideration**

- Second and Fourth Circuits: Rehabilitation can be considered alongside other factors.

- Second Circuit: **United States v. Brooker**, 976 F.3d 228 (2d Cir. 2020).

It bears remembering that compassionate release is a misnomer. **18 U.S.C.S. § 3582(c)(1)(A)** in fact speaks of sentence reductions. A district court could, for instance, reduce but not eliminate a defendant's prison sentence, or end the term of imprisonment but impose a significant term of probation or supervised release in its place. **18 U.S.C.S. § 3582(c)(1)(A)**. Beyond this, a district court's discretion in this area--as in all sentencing matters--is broad. The only statutory limit on what a court may consider to be extraordinary and compelling is that "rehabilitation alone shall not be considered an extraordinary and compelling reason." **28 U.S.C.S. § 994(t)**. Because U.S. Sentencing Guidelines Manual § **1B1.13, application n. 1(D)** does not bind district courts, they are similarly not bound by the Bureau of Prisons' updated guidance on what counts as an extraordinary and compelling reason.

- Fourth Circuit: **United States v. McCoy**, 981 F.3d 271 (4th Cir. 2020).

In **28 U.S.C. § 994(t)**, which generally directs the Sentencing Commission to provide guidance on "extraordinary and compelling reasons," Congress specifies that "[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason." But there is no indication that successful rehabilitation efforts may not be considered as one among other factors under **§ 3582(c)(1)(A)(i)**, and the government does not argue otherwise here.

The Supreme Court's review is necessary to clarify the appropriate standard and ensure uniformity across jurisdictions.



## **II. Eighth Amendment Implications – Deliberate Indifference to Serious Medical Needs:**

- The placement of a Care Level 4 inmate in a facility ill-equipped to meet his medical needs raises serious constitutional concerns under the Eighth Amendment. The Court's precedent in **Estelle v. Gamble, 429 US 97, 104-106 1976**, establishes that deliberate indifference to inmates' medical needs constitutes cruel and unusual punishment. This case provides an opportunity to examine whether systemic healthcare failures within the Bureau of Prisons (BOP) amount to such indifference and require redress under constitutional principles.

## **III. Judicial Overreach and Imposition of Extra-Statutory Requirements:**

- The district court dismissed the recommendation of a BOP regional doctor on the erroneous basis that the doctor lacked expertise in legal standards. This creates an extra-statutory burden that is unsupported by **18 U.S.C. § 3582(c)(1)(A)** or **USSG § 1B1.13**. The Court should address whether such judicial overreach conflicts with the statutory framework and undermines the role of medical professionals in compassionate release evaluations.

## **IV. Inadequate Consideration of § 3553(a) Factors:**

- The Petitioner asserts that the lower court failed to adequately consider the

factors outlined in **18 U.S.C. § 3553(a)**, which are pivotal in determining eligibility for compassionate release. Specifically, the extraordinary nature of the Petitioner's medical conditions, advanced age, and the systemic denial of necessary care were not sufficiently weighed, resulting in a judicial oversight that undermines both statutory mandates and constitutional protections.

***a. Extraordinary Medical Conditions and Advanced Age:***

- The Petitioner's severe medical issues, including [specific medical conditions], coupled with advanced age, present a compelling case for compassionate release. Under **§ 3553(a)(1)**, the court is required to consider the nature and circumstances of the offense and the history and characteristics of the defendant, including any evidence of the defendant's age and physical condition. The Petitioner's deteriorating health and advanced age significantly impair his ability to participate in rehabilitation programs and increase the risks associated with continued incarceration. The lower court's failure to give due weight to these factors constitutes a neglect of the statutory requirements intended to balance the goals of sentencing with humanitarian considerations.

***b. Systemic Denial of Necessary Care:***

- The systemic denial of necessary medical care exacerbates the Petitioner's already precarious health status. **§ 3553(a)(2)** directs the court to consider the kinds and severity of the punishment and the history and characteristics of the defendant.

Denial of appropriate medical treatment not only contravenes the Eighth Amendment's prohibition against cruel and unusual punishment but also reflects a failure to uphold the rehabilitative ideals enshrined in federal sentencing guidelines. The lower court's disregard for the Petitioner's unmet medical needs and the institutional shortcomings in addressing these needs highlights a critical lapse in ensuring humane treatment within the federal prison system.

***c. Compliance with Statutory and Constitutional Standards:***

- The oversight in evaluating the Petitioner's extraordinary medical and age-related circumstances raises profound concerns regarding the lower court's adherence to both statutory mandates and constitutional safeguards. **18 U.S.C. § 3553(a)** mandates a holistic review of each case, emphasizing individualized justice. By inadequately addressing the Petitioner's unique circumstances, the lower court deviated from the principle of individualized sentencing and failed to align with the constitutional imperative to prevent disproportionate and inhumane punishment.

***d. Rehabilitation and Bureau of Prisons' Security Designation:***

- While the Petitioner's rehabilitation efforts and favorable Bureau of Prisons' (BOP) security designation—classified as security level 0 with a recidivism rate of 18—are not standalone criteria for compassionate release, they are integral components of a comprehensive review under **§ 3553(a)**. These factors demonstrate

the Petitioner's low risk of reoffending and successful reintegration into society. The lower court's insufficient consideration of these positive indicators undermines the potential for a constitutionally appropriate and socially beneficial outcome. Properly integrating the Petitioner's rehabilitative progress and security assessment with other mitigating factors should have significantly influenced the compassionate release determination.

***e. Interplay of Multiple § 3553(a) Factors:***

- The evaluation of § 3553(a) factors is inherently multifaceted, requiring a balanced assessment of both aggravating and mitigating circumstances. The Petitioner's case presents a convergence of factors that collectively warrant a departure from continued incarceration. The lower court's narrow focus on certain elements while neglecting others fails to capture the full scope of the Petitioner's situation, leading to an imbalanced and unjust decision. Comprehensive judicial reasoning must synthesize all relevant factors to ascertain whether the goals of sentencing—such as punishment, deterrence, incapacitation, and rehabilitation—are being appropriately served.

***f. Precedential Support and Legal Standards:***

- Jurisprudence consistently supports the notion that courts must diligently consider all pertinent § 3553(a) factors to ensure just and equitable sentencing outcomes. By inadequately addressing the § 3553(a) factors, the lower court not

only undermines the Petitioner's case but also sets a concerning precedent that may erode the integrity of compassionate release provisions in future applications.

The lower court's insufficient consideration of the § 3553(a) factors—specifically the Petitioner's extraordinary medical conditions, advanced age, and systemic denial of necessary care—constitutes a significant procedural and substantive error. This oversight not only contravenes statutory requirements but also fails to uphold the constitutional mandate for humane medical treatment.

**g. Clarification of Standards for Compassionate Release for Elderly and Chronically Ill Inmates:**

- Petitioner's case underscores the broader issue of access to compassionate release for elderly and medically compromised inmates. The **First Step Act** was designed to expand access to compassionate release, yet the district court's decision appears to impose restrictive barriers that contravene legislative intent. The Supreme Court's intervention is necessary to provide guidance on the appropriate balance between judicial discretion and statutory mandates.

**VI. Systematic Healthcare Failures in the Bureau of Prisons:**

- The case highlights systemic issues within the BOP, including inappropriate facility placements, chronic treatment delays, and denial of specialist care. These failures not only exacerbate Petitioner's conditions but also raise broader concerns

about the adequacy of medical care in federal prisons. The Court's review could establish important standards for ensuring that inmates' healthcare needs are met in compliance with constitutional and statutory obligations.

### **VII. Impact on Future Cases and Precedent:**

- Allowing the district court's decision to stand risks setting a precedent that undermines the compassionate release statute and the Eighth Amendment. Without Supreme Court intervention, other courts may adopt similarly restrictive interpretations, effectively denying relief to deserving individuals and frustrating the intent of the **First Step Act**.

Moreover, this case presents compelling issues of exceptional importance that warrant this Court's review. The intersection of statutory interpretation, constitutional rights, and systemic healthcare failures within the federal prison system raises questions that transcend the immediate circumstances of this case and affect thousands of elderly and medically compromised inmates nationwide.

The district court's internally contradictory decision—acknowledging extraordinary and compelling circumstances while denying relief—exemplifies the confusion in lower courts regarding the proper application of **18 U.S.C. § 3582(c)(1)(A)**. This contradiction, coupled with the imposition of extra-statutory requirements and dismissal of medical expertise, demonstrates a pressing need for this Court's guidance to ensure uniform and just application of the compassionate

release statute.

The constitutional implications of housing a Care Level 4 inmate in a facility unable to provide adequate medical care directly implicate this Court's **Eighth Amendment** jurisprudence. The systematic failure to provide appropriate medical care, evidenced in this case, requires examination under *Estelle v. Gamble*'s deliberate indifference standard.

This case presents an ideal vehicle for the Court to address these critical issues and provide much-needed clarity on the standards governing compassionate release, particularly for elderly and chronically ill inmates. The Court's intervention is essential to fulfill the remedial purpose of the First Step Act and ensure that the compassionate release statute serves its intended function within constitutional bounds.

## CONCLUSION

The Petitioner respectfully requests that this Honorable Supreme Court issue a writ of certiorari for denial of compassionate release (Case No. 24-383), for the reasons stated above.

Respectfully submitted,

A handwritten signature in cursive script that reads "William Wise". The ink is dark and the signature is written in a fluid, connected style.

Date: February 20, 2025