**NO:**

# In the Supreme Court of the United States

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**ARMANI DAVIS-MALONE,**

***Petitioner*,**

**v.**

**UNITED STATES OF AMERICA,**

***Respondent*.**

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

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED FOR REVIEW

Whether a district court commits reversible error by denying a stipulated sentence reduction without acknowledging the stipulation or and evidence of the defendant's rehabilitation?

## PARTIES TO THE PROCEEDINGS

There are no parties to the proceeding other than those named in the caption of the case.

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## PETITION FOR WRIT OF CERTIORARI

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Armani Davis-Malone respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

## OPINIONS BELOW

The decision of the United States Court of Appeals for the Sixth Circuit is reported at 128 F.4th 829 (6th Cir. 2025), and is reprinted in the appendix at APP 1. The order by the district court is at APP 11.

## STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The decision of the court of appeals affirming the denial of Davis-Malone's motions for a sentence reduction was entered February 14, 2025. This petition is timely filed pursuant to Supreme Court Rule 13.1.

## STATUTORY PROVISIONS INVOLVED

Section 3582(c)(2) of the Title 18 states the following:

The court may not modify a term of imprisonment once it has been imposed except that—

> in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

## INTRODUCTION

Armani Davis-Malone asked for a three-month reduction in his sentence. The government agreed that the reduction was appropriate. The district court denied the reduction without acknowledging Davis-Malone's motion, the government's agreement to the reduction, or significant evidence of rehabilitation submitted by the probation department and Davis-Malone himself. By affirming the reduction denial,

the Sixth Circuit inappropriately deviated from the standards announced in *Chavez-Meza v. United States*, 585 U.S. 109 (2018), and *Concepcion v. United States*, 597 U.S. 481 (2022). This Court's review is needed to clarify how district courts are required to explain their reasonings for sentence-reduction denials.

## STATEMENT OF THE CASE

1. Armani Davis-Malone pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), retaining his right to pursue a reduction under 18 U.S.C. § 3582(c)(2) if the Sentencing Commission made a retroactive change lowering his guideline range. In June 2023, the district court imposed 60 months in prison a downward variance from the guideline range of 70 to 87 months. The court observed that Davis-Malone had never before served longer than nine months in custody, so that a five-year sentence would hopefully deter future crimes.

2. In November 2023, the Sentencing Commission promulgated Amendment 821, made retroactive through USSG § 1B1.10. The Amendment addressed the two "status points" added to criminal history scores for being on probation or parole at the time of sentencing. The Sentencing Commission identified Davis-Malone as a person potentially eligible for a reduction under the amendment, and the probation department in the Eastern District of Michigan prepared a report concluding that Davis-Malone was indeed eligible for a three-month reduction. The probation officer explained that Amendment 821 reduced Davis-Malone's total

criminal history points from 10 to 9, reducing his criminal history category from V to IV. His amended guideline range is 57 to 71 months.

3. The probation officer also summarized Davis-Malone's post-sentencing conduct in custody. The officer explained that Davis-Malone earned his GED in January 2024 and worked in the Unicor program's recycling department. He also participated in multiple additional educational courses, including classes in "nutrition, geological wonders, food certification, starting a business, and creating your own path." The report added that Davis-Malone "has not received any disciplinary sanctions," and he paid his special assessment imposed by the court.

Counsel for Davis-Malone and the prosecution then submitted a stipulation agreeing that the sentencing factors warranted a sentence reduction to 57 months. Davis-Malone also filed a pro se motion for a sentence reduction under § 3582(c)(2). He emphasized that he was an active Unicor employee, and he submitted a copy of his GED certificate. He submitted an education transcript showing his completion of more than 100 hours of programming, and he provided copies of certificates for courses in parenting, food safety, and drug abuse education.

4. The district court denied Davis-Malone's motion in a form order. The court added two sentences to the form order, which stated as follows: "The defendant's new guideline range is 57 to 71 months. The defendant recieved {sic} a sentence of 60 months custody. As the defendant's original sentence is at the lower end of the new guideline range, a sentence reduction is DENIED." APP11. The court did not

acknowledge the parties' stipulation that a reduction to 57 months was appropriate Nor did the court acknowledge Davis-Malone's completion of his GED, hours of programming, clean disciplinary record, or work for Unicor. The court's order indicated that it was denying a reduction on the court's own motion, and the court made no indication that it was aware of Davis-Malone's pro se motion or the records he provided showing his rehabilitation while in custody.

5. Davis-Malone timely appealed, and the Sixth Circuit affirmed. The Sixth Circuit said it saw "no basis to conclude that the district court did not *consider*" Davis-Malone's rehabilitative efforts. APP08. The Sixth Circuit acknowledged that the district court checked the box on the form order saying that it was considering relief on the court's own motion, seemingly ignoring Davis-Malone's own motion with proof of his Unicor work and GED completion. APP09. But the Sixth Circuit said that some of these efforts were discussed in the probation officer's report and Davis-Malone "identifies nothing to suggest that the court might have missed that report too." APP09.

6. Finally, the Sixth Circuit acknowledged that the district court did not mention the government's agreement to a reduction. APP09. But the Sixth Circuit faulted Davis-Malone for "cit[ing] nothing to suggest that the court failed to consider the argument." APP09.

## REASONS FOR GRANTING THE WRIT

**This Court's review is necessary to clarify *United States v. Chavez-Meza* and *Concepcion v. United States*.**

The Sixth Circuit erred in affirming the denial of Davis-Malone's motion for a reduced sentence, and its decision shows confusion among circuit courts about this Court's standard in *Chavez-Meza* and *Concepcion*. The Sixth Circuit repeatedly faulted Davis-Malone for not proving the district court ignored the factors favoring a reduction—particularly, his rehabilitation efforts, and the government's agreement to a reduction. But this reasoning requires Davis-Malone to prove a negative, and moreover, it absolves the district court from its obligation to explain the reasoning for its decision to deny a reduction as discussed in this Court's precedent.

This Court addressed the required explanation for denying a reduction under § 3582(c)(2) in *Chavez-Meza*. The Court explained that it is context specific: How much explanation is required, depends "upon the circumstances of the particular case." 585 U.S. at 116. "In some cases, it may be sufficient for purposes of appellate review that the judge simply relied upon the record, while making clear that he or she has considered the parties' arguments and taken account of the § 3553(a) factors, among others." *Id.* "But in other cases, more explanation may be necessary (depending, perhaps, upon the legal arguments raised at sentencing." *Id.* "If the court of appeals considers an explanation inadequate in a particular case, it can send the case back to the district court for a more complete explanation." *Id.*

This Court explained further in *Concepcion*, where it made clear that, in ruling on this type of motion, a district court is not required "to be persuaded by the nonfrivolous arguments raised by the parties before it," but the court is required "to consider them." 597 U.S. at 502. Further, when deciding a sentence-reduction request, "district courts bear the standard obligation to explain their decisions and demonstrate that they considered the parties' arguments." *Id.* at 500–01.

Circuit courts have attempted to elaborated on how much explanation is required for a sentence-modification decision in cases like *United States v. Jones,* 980 F.3d 1098, 1115 (6th Cir. 2020), and *United States v. Navarro*, 986 F.3d 668, 670 (6th Cir. 2021). For example, the Sixth Circuit has explained:

> [D]istrict courts are not required to pen a full opinion in every sentencing or sentencing-modification decision. So, where a matter is conceptually simple and the record makes clear that the sentencing judge considered the evidence and arguments, a district court is not required to render an extensive decision. But on the other hand, *Jones* also opined that in *most* circumstances, a district court's use of a barebones form order would be inadequate. According to *Jones*, a district court's use of a form order is reserved only for cases involving thorough record evidence of the judge's factual decisions.

*Navarro*, 986 F.3d at 670 (quotations and alterations from *Jones* omitted).

The district court's use of a form order was not sufficient in this case. The court never acknowledged that both parties agreed that the factors under 18 U.S.C. § 3553(a) warranted a three-month reduction. Nor did the court acknowledge any of Davis-Malone's compelling rehabilitation efforts discussed in the probation officer's

report and Davis-Malone's own pro se filing—including his completion of his GED, his Unicor work, and his significant programming in custody.

These are particular, nonfrivolous reasons in support of a reduction, and the district court committed reversible error by not acknowledging them. The fact that Davis-Malone earned his GED has a sizeable impact on his likelihood of recidivism. *See, e.g.,* David M. Siegel, *Internalizing Private Prison Externalities: Let's Start with the GED*, 30 Notre Dame J.L. Ethics & Pub. Pol'y 101, 111 (2016) (discussing studies showing a 70% reduction in recidivism among incarcerated people who "participated in high school or GED programs").

Davis-Malone's selection for Unicor is likewise significant. Unicor is a "vital correctional program that assists offenders in learning the skills necessary to successfully transition from convicted criminals to a law-abiding, contributing members of society." UNICOR, BOP.gov, https://perma.cc/QYN2-DL9J. There are approximately 25,000 inmates on the waiting list to work in UNICOR, and only 8% of work-eligible inmates participate in the program. Program Overview, BOP.gov, https://perma.cc/6F37-DM6W. A BOP study, "Post-Release Employment Project (PREP)," found that the select group of highly skilled inmates, like Davis-Malone, who worked in UNICOR were significantly less likely to recidivate than inmates who did not participate. *Id.*

The district court did not need to pen a full opinion, but in this circumstance where the parties *agreed* that a reduction was appropriate, the court at least needed

to acknowledge that parties' agreement and explain why it disagreed with both the government and the defense. The court held no hearing so that it could explain its position to the parties. It appeared not to even realize that Davis-Malone had submitted his GED paperwork and programming certificates to the court for consideration.

"Judicial decisions are *reasoned* decisions." *Rita v. United States*, 551 U.S. 338, 356 (2007). "A record that is all bones and no meat starves criminal defendants of meaningful appellate review." *Jones*, 980 F.3d at 1116. The record in this case is all bones. The district court provided nothing to explain why it disagreed with the parties or whether it even considered Davis-Malone's rehabilitation. Remand is necessary to allow the court to comply with *Chavez-Meza* and *Concepcion.*

The Sixth Circuit is in tension with the Seventh Circuit decision in *United States v. Williams,* 93 F.4th 389 (7th Cir. 2024). There, the district court denied a sentence reduction using a form order, with "a paragraph stating the properly calculated statutory and guidelines ranges and trivial rephrasings of a few sentences." *Id.* at 392. Applying what it termed the "the totality-of-circumstances test" from *Chavez-Meza*, the Seventh Circuit remanded for "a more complete explanation." *Id.* at 390 (quoting *Chavez-Meza*¸ 138 S. Ct. at 1965–66).

The Seventh Circuit explained that "lest there be any temptation to over-read *Chavez-Meza* as holding that a simple box-check is always enough," *Concepcion* confirmed that district courts still bear the obligation "'to explain their decisions and

demonstrate that they considered the parties' arguments.'" *Williams*, 93 F.4th at 393 (quoting *Concepcion*, 597 U.S. at 500–01). The court emphasized that *Concepcion* holds that intervening changes of fact may be considered. *Id.*

Further, the Seventh Circuit explained that, as here, the defendant's mitigating arguments were "not frivolous points that the district court was free to disregard." *Williams*, 93 F.4th at 394. While the court was free to find the defendant's "arguments unpersuasive, on this record it was required to articulate at least 'a brief statement of reasons' to explain that assessment." *Id.* (quoting *Concepcion*, 597 U.S. at 501). Instead, the order's silence leaves the appellate court without assurance that the district court actually considered the defendant's arguments. *Id.*

The case for remand here is as strong as in *Williams*. Davis-Malone presented substantial, non-frivolous reasons for a reduced sentence. Moreover, the government *agreed* that a reduced sentence was appropriate, and the parties filed a stipulation to that effect. In these unique circumstances, it was not sufficient for the district court to deny the reduction without even acknowledging Davis-Malone's rehabilitation efforts or the fact that both parties agreed to the reduction.

By inferring the district court considered all of Davis-Malone's arguments, despite no explicit discussion of them, the Sixth Circuit undermined *Concepcion* and *Chavez-Meza*. The Sixth Circuit created a nearly impossible standard, where a movant must cite affirmative evidence that a district court ignored arguments in favor of a reduction, rather than relying on the absence of any recognition of

substantial reduction arguments. This Court should grant review to clarify the requirements under *Concepcion* and *Chavez-Meza,* and to avoid an erosion of this Court's requirements in terms of district courts' obligation to explain sentence-reduction decisions.

## CONCLUSION

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

Respectfully submitted,
FEDERAL PUBLIC DEFENDER

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May 13, 2025