

No. 24-556

IN THE
Supreme Court of the United States

JOE FERNANDEZ,

Petitioner,

v.

UNITED STATES,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT

REPLY BRIEF FOR PETITIONER

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INTRODUCTION

Both parties agree that the question presented in this case can be answered through a plain language understanding of the words “extraordinary and compelling” within 18 U.S.C. § 3582(c)(1)(A). The government, however, proposes reading these words as containing a categorical limitation that cannot be derived from their plain meaning.

According to the government, only “personal circumstances,” such as age, medical condition, family circumstances and rehabilitation, are eligible for consideration as “extraordinary and compelling” reasons supporting a sentence reduction. In its reading, any claims of error related to a defendant’s underlying judgment, which could have been raised under 28 U.S.C. § 2255, cannot be considered. In the government’s view, such claims are always ordinary and never compelling because they are typically raised and addressed on collateral review.

Notably, the government’s reading would prohibit courts from considering not only claims of error that are cognizable on collateral review but also what it calls “potential” claims of error that would be “unsuccessful on the merits.” The upshot of the government’s position is that any arguments related to the unfairness of the underlying conviction or sentence, which do not allege legal error at all, are categorically prohibited from consideration. The government’s position that such reasons, which include the district court’s “disquiet” that the Petitioner in this case may be innocent of the crimes for which he was sentenced to life imprisonment, can never be deemed “extraordi-

nary,” and the unavailability of collateral relief to address them can never be sufficiently “compelling” to warrant a sentence reduction, is inconsistent with the plain meaning of these words.

The structure of the relevant statutory provisions undercuts the government’s position as well. In 28 U.S.C. § 994(t), Congress delegated to the Sentencing Commission the responsibility to “describe what should be considered extraordinary and compelling reasons for sentence reduction,” with the sole categorical limitation that “[r]ehabilitation of the defendant alone shall not be considered . . . extraordinary and compelling.” The government’s proposal to impose an additional unwritten restriction would be an improper limitation on the statute’s explicit delegation of authority to the Commission and the broad discretion afforded to sentencing courts. There is no basis to infer any additional categorical limitations on such delegation and discretion beyond what Congress legislated.

Furthermore, the government’s position treats arguments that can be raised under section 2255—which Congress did not call out for special treatment—more strictly than rehabilitation, which cannot carry the day on its own, but may be considered as part of the overall “extraordinary and compelling” analysis. The government offers no explanation for this anomaly. But this is a critical point given that the question presented in this case is not whether a reason that may be alleged as a ground for vacatur under section 2255 can be the sole basis for relief under section 3582(c)(1)(A), but rather whether it can be included among a “combination of ‘extraordinary and compelling reasons.’”

As the statutory language does not support its position, the government strains to marshal arguments about the design, purpose and historical understanding of section 3582(c)(1)(A) to support its position limiting that provision to consideration of a prisoner’s “personal circumstances.” But “[w]hen the express terms of a statute give us one answer and extratextual considerations suggest another, it’s no contest. Only the written word is the law, and all persons are entitled to its benefit.” *Bostock v. Clayton Cnty.*, 590 U.S. 644, 653 (2020). The government’s argument that sentence reductions have largely been limited, by Bureau of Prisons (“BOP”) regulation, practice or otherwise, to consideration of a prisoner’s personal circumstances cannot justify an extratextual restriction on how courts may exercise their discretion.

The government further attempts to root its position in a purportedly irreconcilable conflict between section 2255 and section 3582(c)(1)(A). But the government fails to describe any actual conflict, much less one that is significant enough to require paring back the latter statute to accommodate the former. The government points to the line of cases starting with *Preiser v. Rodriguez*, 411 U.S. 475 (1973), to argue that section 2255 preempts the full effect of section 3582(c)(1)(A). But *Preiser* addressed the specific circumstance in which giving full effect to application of another statute (section 1983) would permit any prisoner directly—and *necessarily*—to challenge the legal validity of his confinement, thereby circumventing the strict procedural rules of the habeas statute (in *Preiser*, section 2254). Such circumstances are not present here.

As an initial matter, the requirements for success under section 3582(c)(1)(A) are entirely distinct from those under section 2255; demonstrating a legal error is neither a necessary nor a sufficient condition to obtaining discretionary relief under section 3582(c)(1)(A). There is thus no basis for a court to construe a sentence-reduction motion that raises an issue that could be alleged under section 2255 as a “repackaged” habeas petition, particularly when it is accompanied by *other reasons* warranting relief; instead such a motion can be properly treated as a section 3582(c)(1)(A) motion without implicating, much less wholly frustrating, Congress’s intent in establishing procedural bars to federal habeas relief. A motion raising “extraordinary and compelling reasons” that relate to grounds that could be raised under section 2255 does not, in the words of *Preiser*, go to the “core of habeas corpus” because it does not turn on a determination that the defendant is subject to an unlawful conviction or sentence. 411 U.S. at 487.

The government also expresses an exaggerated concern that prisoners will regularly use section 3582(c)(1)(A) to evade section 2255’s requirements. As both parties recognize, arguments related to the legality of a defendant’s conviction or sentence are generally addressed through the habeas process; thus they typically will not present “extraordinary and compelling” bases for a sentence reduction. It will be the highly unusual, and thus “extraordinary,” case where a defendant’s argument related to his conviction or sentence will even be seriously considered as an “extraordinary and compelling” reason to reduce a sentence, much less found to actually meet this standard.

In such a case, section 3582(c)(1)(A) serves as the discretionary “safety valve” Congress intended for sentencing courts to deploy. Allowing a sentence reduction in that rare case does not undermine section 2255 and appropriately gives full effect to section 3582(c)(1)(A).

Finally, the government’s position is on even weaker footing with respect to arguments related to a prisoner’s underlying conviction or sentence that do not raise an actual claim of error (like Petitioner’s arguments of innocence and sentencing disparities), which the government also says cannot be considered under section 3582(c)(1)(A) because of an apparent conflict with section 2255. Such arguments are even further from the “core of habeas corpus” because they do not allege an error that can be addressed under section 2255, and therefore cannot be said to evade the statute’s procedural limitations. As such, in the name of correcting a non-existent conflict between these two statutes, the government casts too sweeping a rule, which it baselessly seeks to apply to the reasons that warranted a sentence reduction in this case.

ARGUMENT

I. The Government’s Position Is Inconsistent with the Text of Section 3582(c)(1)(A).

This case should be decided based on the plain meaning of section 3582(c)(1)(A), which provides a court with discretion, subject to delineated exceptions, to reduce a sentence “if it finds extraordinary and compelling reasons warrant such a reduction.” (Pet. Br. 23-30.) The government’s position—that there is an unwritten categorical limitation prohibiting courts

from considering arguments that could be asserted under section 2255 (whether successfully or unsuccessfully) among a combination of “extraordinary and compelling” reasons—defies the words of the statute.

A. The Government’s Position Is Inconsistent with the Plain Meaning of “Extraordinary and Compelling.”

The parties agree on the applicable dictionary definitions of “extraordinary” and “compelling.” (Pet. Br. 26; Govt. Br. 20.) Nevertheless, the government draws from these undisputed definitions the extreme conclusion that reasons that can be alleged as grounds for vacatur under section 2255 (even those that would not succeed because they do not allege legal error) can *never* even be considered among the “extraordinary and compelling” reasons for a sentence reduction. As a matter of plain meaning, that position is wrong.

1. The government argues that “[p]otential or actual section 2255 claims” are not “extraordinary” because they are “extremely common.” (Govt. Br. 22.) But the same can be said of grounds that are more typically presented in section 3582(c)(1)(A) motions, such as age, medical condition, family circumstances and rehabilitation. As a *category* they are common, but within each category there are extreme examples—such as a prisoner who is terminally ill with months to live—that amount to “extraordinary” reasons warranting a sentence reduction.

Petitioner does not dispute that most arguments that can be made under section 2255 would not present a basis for a section 3582(c)(1)(A) reduction, alone or in combination with other reasons. That is inherent

in the high standard set by the word “extraordinary.” The government, however, seeks a ruling that such reasons can *never* contribute to a finding of extraordinary circumstances. There is no basis to interpret “extraordinary” to allow courts to consider factors such as age and illness but not that the defendant may be serving an unlawful sentence (which could have been raised on habeas) or, as in this case, that the defendant may be innocent (for reasons that do not support a grant of habeas). While the government argues that “[a]ddressing postconviction claims of error under Section 2255—and engaging in error correction when appropriate—is the ‘ordinary business of the legal system’” (*id.* at 23), a prisoner may have extraordinary reasons for failing to have raised the error, or the error in combination with other circumstances may be viewed as extraordinary. And certainly, as in Petitioner’s case, when the prisoner does not raise error at all but argues innocence, a judge’s “disquiet” that the prisoner may be innocent and serving a life sentence is far from the “ordinary business of the legal system.”

2. The government further argues that reasons that can be alleged under section 2255 are not “compelling” because they could have been raised on collateral review. (*Id.*) If the claim failed, the government posits, then “doubts as to whether they were correctly adjudicated” cannot be “compelling”; and if the claim was never made, it also cannot provide a “compelling” basis to reduce the sentence. (*Id.*)

Once again, the government’s position may be right in the “usual” case. But there is no support for the government’s position that the circumstances surrounding a defendant’s conviction or sentence can

never be deemed compelling, especially when considered in connection with other reasons.

Take the facts of *United States v. Trenkler*, in which the First Circuit held that courts ruling on section 3582(c)(1)(A) motions can consider arguments that could be alleged as grounds for relief under section 2255. 47 F.4th 42, 48-49 (1st Cir. 2022). Trenkler was sentenced to life imprisonment even though a statute in effect at the time required a jury directive before a life sentence could be imposed, which neither he, the government nor the court recognized. *See United States v. Trenkler*, 537 F. Supp. 3d 91, 95 (D. Mass. 2021), *vacated and remanded*, 47 F.4th 42 (1st Cir. 2022). Trenkler discovered the sentencing error 10 years later and filed a petition for a writ of coram nobis, which the trial judge granted (resentencing him to 37 years), but the appellate court ultimately reversed on procedural grounds. *See id.* at 95-96. After serving 41 years, Trenkler sought relief under section 3582(c)(1)(A) and the judge assigned to rule on that motion reduced his sentence to time served based on a combination of reasons, including that his sentence was unlawful when imposed, as well as his documented heart condition and a significant outbreak of COVID-19 in the prison. *Id.* at 93.

That the sentencing error could have been raised earlier on direct or collateral review—neither of which was actually possible in Trenkler’s case—did not undercut the fact that the court construed Trenkler’s overall circumstances as “extraordinary and compelling” under the plain meaning of those words. *See also United States v. Liscano*, No. 02-CR-719-16, 2021 WL 4413320, at *4-5, 8 (N.D. Ill. Sept. 27, 2021) (finding extraordinary and compelling reasons based, in part,

on defendant serving a life sentence that the government conceded was unlawfully imposed).

3. Turning to Petitioner’s case, the government argues that it demonstrates why a “repackaged Section 2255 claim” cannot be “extraordinary and compelling,” as similar claims of innocence were rejected by the jury and courts below. (Govt. Br. 23.) The district and appellate courts did find the evidence sufficient to convict Petitioner, but that does not undermine the district judge’s “strong concerns” about the reliability of the evidence (Pet. App. 36a-37a) and “doubt that the jury’s verdict was correct” (*id.* at 37a). Arguments about innocence are not “repackaged” claims of error.

Contrary to the government’s suggestion, the district judge did not have “second thoughts” (Govt. Br. 40) about the rationale for the original sentence, since Petitioner was subject to a mandatory life sentence. Nor could the judge’s concerns have been addressed under section 2255 as the conviction and sentence were ruled to be legally valid. As such, after all legal avenues were exhausted, the judge was left to believe that he had sentenced a potentially innocent man to life in prison. This, in combination with the significant disparity between Petitioner’s life sentence and the sentences imposed on his co-defendants, are “extraordinary and compelling” reasons—as those words are plainly understood—that the court appropriately determined warranted a sentence reduction. (Pet App. 37a-38a.)

Cases in which courts have granted a discretionary sentence reduction based on the unfairness of the conviction or sentence are rare but no less compelling than when personal circumstances are at issue. For

example, in *United States v. Conley*, No. 11-CR-0779-6, 2021 WL 825669 (N.D. Ill. Mar. 4, 2021), the district court reviewed the mandatory 15-year sentence imposed on Conley, who was convicted after an ATF undercover agent approached his friend to rob a fake stash house supposedly containing 50 kilograms of cocaine. The court granted a sentence reduction after Conley served nine years, concluding that “[i]f there ever was a situation where compassionate release was warranted based on the injustice and unfairness of a prosecution and resultant sentence, this is it.” *Id.* at *4. The court found Conley, who joined the conspiracy just before the planned robbery, to be “the next to least culpable, yet received the longest prison sentence by double based on outrageous and disreputable law enforcement tactics, followed by the prosecution’s relentless pursuit of the sentence despite the rebuke of these cases across the country.” *Id.*

Cases like Petitioner’s and *Conley* show that, far from “swallow[ing] the default rule” favoring finality (Govt. Br. 40-41), allowing courts to grant sentence reductions in such “extraordinary and compelling” cases ensures that section 3582(c)(1)(A) can function as the “safety valve” that Congress intended under the standard that Congress legislated.

4. As a matter of plain meaning, the words “extraordinary and compelling” set a high bar but do not allow for categorical exceptions. (Pet. Br. 26-27.) The government disputes this (Govt. Br. 40) with the obvious assertion that a defendant’s love of French food can never be “extraordinary and compelling,” but its resort to such an absurd example highlights how difficult it is to identify circumstances that actually relate to a defendant’s continued imprisonment that can

never contribute to the “extraordinary and compelling” analysis.

The government also argues that the fact that the Sentencing Commission was instructed to identify categories *within* the universe of “extraordinary and compelling” reasons “presupposes limitations of kind.” (*Id.* at 41.) That gets it backwards. That Congress delegated to the Sentencing Commission the ability to *create* the types of categorical limitations for which the government advocates does not suggest that such limitations already exist within the statute itself. Surely the government would not argue that the numerous factors that the Commission ultimately described in its policy statement as relevant to a finding of “extraordinary and compelling” reasons are inherent in the plain meaning of the statute’s words.

B. The Government’s Position Is Inconsistent with Congress’s Exclusive Restriction on Rehabilitation as an “Extraordinary and Compelling” Reason.

Congress chose not to define “extraordinary and compelling” but instead to delegate to the Sentencing Commission the authority to “describe” what reasons should be considered as well as “the criteria to be applied and a list of specific examples.” 28 U.S.C. § 994(t). Congress placed only one limit on this delegation: that “[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” The government’s position that reasons that can be alleged as grounds for vacatur of a sentence under section 2255 cannot be considered under

section 3582(c)(1)(A) results in a second, unwritten restriction on that delegation and, in turn, a limitation on a court's discretion to modify a sentence.

The government denies that Congress's explicit restriction on rehabilitation implies that it intended to preclude other categorical limitations. (Govt. Br. 44.) The government's explanation for why Congress singled out rehabilitation does not negate the fact that Congress delegated to the Sentencing Commission the task of identifying any further limitations. Imposing an additional restriction on what types of reasons could qualify as "extraordinary and compelling" would be an improper restriction on this delegation.

Notably, the government does not respond to Petitioner's argument (Pet. Br. 29) that there is no basis to preclude *any* consideration of arguments that can be raised under section 2255 when arguments concerning rehabilitation can still be considered *among other reasons*. This failure is glaring in light of the question presented in this case, which is whether a "*combination* of 'extraordinary and compelling reasons' that may warrant" relief under section 3582(c)(1)(A) "*can include* reasons" that may be alleged under section 2255. (*Id.* at i (emphases added).) The government offers no explanation why courts should be allowed to consider rehabilitation as one among several reasons, even when rehabilitation alone was explicitly prohibited by Congress, but not arguments that can be made under section 2255.

In fact, the government seems to forget about rehabilitation altogether when it makes its broad pronouncement that reasons that cannot themselves be a

valid basis for a sentence reduction are “invalid considerations, worth zero weight, in the ‘extraordinary and compelling reasons’ calculus.” (Govt. Br. 47.) The government claims that such reasons “lie outside the set of considerations for which the statute is designed” (*id.*), but that argument not only elevates the government’s supposition as to legislative purpose over the statute’s text, it also is inconsistent with the fact that the same cannot be said of rehabilitation, which Congress explicitly deemed an improper basis, on its own, for a sentence reduction.

Given the individualized and holistic analysis that courts must undertake when considering whether “extraordinary and compelling reasons” exist, there is no basis to conclude that a factor that on its own may not rise to the level of “extraordinary and compelling” could never contribute to such a finding when combined with other reasons. *See United States v. Jenkins*, 50 F.4th 1185, 1208 (D.C. Cir. 2022) (Ginsburg, J., concurring in part, dissenting in part, and concurring in the judgment) (referring to the “Fallacy of Division—assuming what is true of the whole must be true of each part”). The extent to which courts have relied on rehabilitation as one among several factors justifying a sentence reduction under section 3582(c)(1)(A) proves the point.¹

¹ In fact, approximately 15% of the section 3582(c)(1)(A) motions granted in 2024 included rehabilitation as one reason warranting a sentence reduction. *See* U.S. Sent’g Comm’n, *Compassionate Release Data Report Fiscal Year 2024* tbl.10 (Mar. 2025) [hereinafter *2024 Sentencing Commission Data*], available at

**C. The Government’s Position Imposes a
Restriction on District Courts’ Traditional
Sentencing Discretion Beyond
What Congress Provided.**

The government’s interpretation of section 3582(c)(1)(A) conflicts with the plain meaning of the provision, and in turn with a bedrock principle of statutory interpretation that the Court recently underscored in interpreting another provision of the First Step Act—that “[d]rawing meaning from silence is *particularly inappropriate*’ in the sentencing context, ‘for Congress has shown that it knows how to direct sentencing practices *in express terms*.’” *Concepcion v. United States*, 597 U.S. 481, 497 (2022) (emphases added) (quoting *Kimbrough v. United States*, 552 U.S. 85, 103 (2007)). Here, Congress directed courts’ sentencing practices by limiting grants of sentence reductions to cases of “extraordinary and compelling” circumstances and instructing the Sentencing Commission to provide further guidance. There is no basis to infer any additional restrictions on sentencing courts’ authority under section 3582(c)(1)(A).

The government agrees that the “traditional ‘background principles’ of sentencing discretion” apply to the portion of the sentence reduction analysis that requires evaluation of the section 3553(a) factors. (Govt. Br. 42.) It disagrees, however, that this same discretion applies to consideration of whether “extraordinary and compelling” reasons warrant a sentence reduction, because this provision is supposedly

<https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/FY24-Compassionate-Release.pdf>.

“much more textually constrained” than the “traditionally wide-ranging factors that are relevant to setting a sentence.” (*Id.*)

While the government seeks to distinguish *Concepcion*, it does not explain why the general principles that Congress knows how to place limits on courts’ sentencing discretion and that additional restrictions should not be inferred when Congress is silent, should not apply here. Congress “expressly cabined district courts’ discretion by requiring courts to abide by the Sentencing Commission’s policy statements,” *Concepcion*, 597 U.S. at 495 (referencing section 3582(c)(1)(A)), and the government offers no basis to infer any additional restrictions on that discretion beyond what Congress dictated.

II. The Government Cannot Rely on Extratextual Arguments to Support Its Position.

With no support in the plain language of section 3582(c)(1)(A), the government turns to “other features of the statutory scheme” to argue that a court, when reviewing a section 3582(c)(1)(A) motion, may never consider reasons that may also be presented in support of vacatur under section 2255. (Govt. Br. 24.) Under “settled principles of statutory construction,” if the statute is “plain and unambiguous,” then “the statute [must be applied] according to its terms.” *Carcieri v. Salazar*, 555 U.S. 379, 387 (2009). Accordingly, given the clear language of section 3582(c)(1)(A), the “other features of the statutory scheme” that the government describes are irrelevant. Moreover, even were they to be considered, they fail to support the categorical ban the government proposes.

1. The government posits that section 3582(c)(1)(A) “takes the validity of the original judgment as a given,” as it allows courts only to reduce the sentence but not vacate it or the underlying conviction. (Govt. Br. 24.) While the government accurately describes the relief available under this provision, it does not follow that arguments that might imply an error in the judgment are off limits for other purposes. The government argues that “[i]t would make little sense to ‘reduce’ a term of imprisonment that ‘has been imposed’ on the theory that it was wrong to impose it at the time.” (*Id.*) However, given that Congress meant the statute to provide courts with a discretionary “safety valve” to reduce sentences (*see* Pet. Br. 30-34), what actually makes little sense is the government’s argument that this discretion should be curbed because courts do not have the *greater* authority to vacate judgments altogether. Nothing prevents a court from reducing a sentence based, in part, on grounds that could be argued under section 2255 while still leaving the judgment intact, as that is the extent of the relief available under section 3582(c)(1)(A).

2. The government goes well outside the relevant statutory language and argues that Petitioner’s reading undermines the amendment to Federal Rule of Criminal Procedure 35 that was enacted at the same time as section 3582(c)(1)(A). (Govt. Br. 25-26.) Prior to amendment, Rule 35 allowed courts to reduce sentences for any reason within 120 days of its imposition or resolution of a direct appeal. *See* Fed. R. Crim. P. 35 (1984). The government predicts that Petitioner’s interpretation of “extraordinary and compelling”

would “allow an unlimited number of sentence-reduction motions, on effectively any grounds, in perpetuity” and would “blow open’ the doors of sentencing finality.” (Govt. Br. 26.) This concern is unfounded. Any sentence reduction motion, no matter the grounds presented, must meet the high standard of “extraordinary and compelling.” Just as this standard curtails the number of section 3582(c)(1)(A) motions that are made and granted based on personal circumstances, so too does it limit the number of motions made and granted upon consideration of reasons that could be raised under section 2255.

3. The government next argues that allowing reasons implying legal error to be raised in sentence reduction motions creates an “incongruity” given the role of BOP, which is not an expert in legal issues, in evaluating such motions. (*Id.* at 27-28.) As a matter of statutory interpretation, there is no basis to diverge from the plain meaning of “extraordinary and compelling reasons” simply because it may encompass some reasons that BOP might not be well-suited to evaluate. See *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 228 (2008) (“We are not at liberty to rewrite the statute to reflect a meaning we deem more desirable.”). This “incongruity” should also be of no concern given how few sentence reductions BOP initiates, and how the overwhelming majority of prisoner-initiated motions are—and will be no matter how this Court rules—based on personal circumstances.² Moreover, given that there is no requirement of issue exhaustion, *United States v. Ferguson*, 55 F.4th 262, 268-69 (4th Cir. 2022), prisoners need not even present legal

² See 2024 Sentencing Commission Data, *supra* note 1, tbl.10.

arguments to BOP before presenting them to the district court.

4. The government argues that section 3582(c)(1)(A) has historically been understood as limited to “a prisoner’s personal situation” that could not have been foreseen by the sentencing court. (Govt. Br. 30.) The government points to several sources for this supposed understanding, including that relief under section 3582(c)(1)(A) is commonly referred to as “compassionate release,” the role that BOP played both in the parole system and under section 3582(c)(1)(A) and policy statements from the Sentencing Commission, which, until 2023, did not refer to motions raising legal issues.

These arguments fail, however, because no matter what the historical understanding was of the typical bases on which sentencing reductions would be granted, that understanding was never enacted into law. *See Nichols v. United States*, 578 U.S. 104, 112 (2016) (“[E]ven the most formidable argument concerning the statute’s purposes could not overcome the clarity [of] the statute’s text.” (citation omitted)). Congress could have explicitly adopted and defined the term “compassionate release” to limit a court’s discretion to reduce sentences only based on personal circumstances, but it chose not to. Instead Congress chose, in the Sentencing Reform Act, a less prescriptive but nonetheless heightened standard, which it retained in the First Step Act. The clear language of the statute cannot be altered by speculation about what Congress, BOP or the Sentencing Commission understood about how the statute would be deployed.

III. The Government Cannot Identify an Inconsistency Between Section 3582(c)(1)(A) and Section 2255 That Supports Its Position.

As this Court has made clear, repeal by implication may be found only where there is an “‘irreconcilable conflict’ between the two federal statutes at issue.” *Matsushita Elec. Indus. Co. v. Epstein*, 516 U.S. 367, 381 (1996) (internal citations omitted). An affirmative answer to the question presented in this case would create no conflict or overlap between section 3582(c)(1)(A) and section 2255 that would require adopting a non-literal interpretation of the phrase “extraordinary and compelling.” See *Morton v. Mancari*, 417 U. S. 535, 551 (1974) (“[W]hen two statutes are capable of co-existence, it is the duty of the courts . . . to regard each as effective.”).

1. The government does not demonstrate an irreconcilable conflict between section 2255 and section 3582(c)(1)(A), all but dropping the argument that was the centerpiece of the Second Circuit’s reasoning that such a conflict exists and must be resolved by applying the general/specific canon. (Govt. Br. 38-39.) At best, the government waves at an inconsistency by arguing that allowing courts to consider “claims of error” on a section 3582(c)(1)(A) motion “would undermine,” “subvert” and “permit evasion” of section 2255’s procedural limitations. (*Id.* at 32-33.) Given the high bar that prisoners must meet to establish “extraordinary and compelling” reasons, it will be the rare case in which a prisoner tries—much less succeeds—to seek a sentence reduction based, even in part, on grounds that could also be raised under section 2255 to obtain a sentence reduction. And, given the role that section

3582(c)(1)(A) plays as a “safety valve,” there is no reason to view the availability of discretionary sentencing relief in such limited circumstances as inconsistent with the general procedural restrictions on section 2255 motions.

This Court’s cases, beginning with *Preiser*, do not support the government’s position that the mere possibility that some prisoners will attempt to circumvent section 2255’s procedural bars requires a construction of section 3582(c)(1)(A) that precludes consideration of claims that could also be raised under section 2255. In *Preiser* itself, for example, the Court held that it would “*wholly frustrate* explicit congressional intent” to allow plaintiffs to resort to section 1983 when challenging their confinement, instead of the federal habeas statute. 411 U.S. at 489 (emphasis added). And as the Court reiterated in *Nance v. Ward*, allowing such cases to proceed “would apply to *all of a prisoner’s constitutional claims*, thus *swamping* the habeas statute’s coverage of claims that the prisoner is ‘in custody in violation of the Constitution.’” 597 U.S. 159, 167 (2022) (emphases added). Likewise, in *Jones v. Hendrix*, this Court recognized that allowing a prisoner to evade the requirements for successive petitions in section 2255(h) by bringing a habeas petition under section 2241’s savings clause would make Congress’s enactment of section 2255(h) “curiously self-defeating.” 599 U.S. 465, 479 (2023).

Unlike a claim brought pursuant to section 1983 or section 2241’s savings clause, a prisoner’s section 3582(c)(1)(A) motion would not “swamp” section 2255 or make section 2255’s procedural requirements “self-defeating.” Rather, only in “extraordinary” cases will

courts be able to consider the circumstances underlying such claims when assessing whether to grant a discretionary sentence reduction. Unlike in *Preiser*, here the two statutes sit side by side, without conflicting. They have separate domains: section 2255 governs vacatur of convictions or sentences due to error, and section 3582(c)(1)(A) governs sentence reductions due to “extraordinary and compelling” circumstances.

The government offers no response to the argument that a section 3582(c)(1)(A) motion that includes reasons that could also be alleged under section 2255 does not go to the “core of habeas corpus” because granting a defendant’s section 3582(c)(1)(A) motion will not “necessarily imply the invalidity of his conviction or sentence.” (Pet. Br. 20-21 (quoting *Heck v. Humphrey*, 512 U.S. 477, 487 (1994)).) Indeed, when a court grants such a motion, it does so based on a holistic analysis of all the facts relevant to a finding of “extraordinary and compelling reasons” warranting a sentence reduction, which does not *necessarily* imply the invalidity of the defendant’s judgment.

2. The government’s concern that if this Court rules in Petitioner’s favor, “[s]imilar possibilities of attempted circumvention by other prisoners abound” is far-fetched. (Govt. Br. 34.) Prisoners must show “extraordinary and compelling reasons,” which for all the reasons articulated by the government (*id.* at 19-21), eliminates this concern.

This Court’s decision in *Gonzalez v. Crosby*, 545 U.S. 524, 531 (2005), is instructive. There, the Court held that Rule 60(b) motions, like habeas petitions, present “claims for relief from a state court’s judgment of conviction” and therefore must be subjected to

AEDPA’s procedural limitations. However, the Court recognized that when a Rule 60(b) motion raised “some defect in the integrity of the federal habeas proceedings,” “there is no basis for contending that the Rule 60(b) motion should be treated like a habeas corpus application.” *Id.* at 532-33. The Court noted that allowing Rule 60(b) motions in habeas cases “will not expose federal courts to an avalanche of frivolous postjudgment motions,” precisely because of the requirement that Rule 60(b) movants must show “extraordinary circumstances,” which “will rarely occur in the habeas context.” *Id.* at 534-35. The same is true of section 3582(c)(1)(A) motions, where prisoners must meet the even higher burden of “extraordinary and compelling.”

There is also no suggestion in the Sentencing Commission data that allowing prisoners to include claims of error in their section 3582(c)(1)(A) motions will result in a “profusion of motions” made or granted. (Govt. Br. 45.) The First Circuit, which has rejected the government’s position, *see Trenkler*, 47 F.4th at 48, has not experienced a large number of additional motions since *Trenkler* was decided.³ In fact, there do not appear to be any district court decisions in the First Circuit since *Trenkler* in which a section 3582(c)(1)(A) motion was granted, even in part, based on grounds that could be raised under section 2255.

³ See 2024 Sentencing Commission Data, *supra* note 1, tbl.3 (59 motions in FY 2024); U.S. Sent’g Comm’n, *Compassionate Release Data Report Fiscal Year 2023* tbl.3 (Mar. 2024), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/FY23-Compassionate-Release.pdf> (49 motions in FY 2023).

3. The government further proposes not only to prohibit claims that could successfully invalidate the underlying judgment but also those claims that do not identify any legal error, and thus certainly cannot be said to be within the “core of habeas corpus.” The government maintains that allowing such “potential . . . Section 2255 claims” (Govt. Br. 22) to proceed would “magnif[y] the end-run around Section 2255’s limitations,” which requires a showing of an “error” (*id.* at 45). However, there can be no possible end-run around section 2255’s procedural limitations when a claim cannot even meet that statute’s substantive standard.

The government argues that “Congress did not empower individual district courts to blur Section 2255’s clear lines by creating an amorphous and variable set of claims that are unavailable” to serve as grounds under section 2255 but could justify relief under section 3582(c)(1)(A). (*Id.* at 3.) What the government fails to realize, however, is that there can be (rare) circumstances at trial or sentencing that may not rise to the level of warranting vacatur of a conviction or sentence, but nonetheless may contribute as much to a discretionary sentence reduction as a defendant’s personal circumstances.

This is true in Petitioner’s case, where he did not allege in support of his sentence reduction motion that his conviction or sentence was unlawful but rather raised arguments that cast doubt on the principal cooperating witness, leading the district judge to have “strong concerns” that Petitioner was innocent, and identified significant disparities between his mandatory life sentence and the sentences of his co-defendants. (Pet. App. 37a-38a.) Precluding such arguments

under section 3582(c)(1)(A) would do nothing to reconcile a conflict with section 2255, as these are not claims of legal error. Rather, doing so would baselessly prevent prisoners from ever making arguments about the unfairness of their underlying judgment in support of a motion for sentence reduction.

IV. The Rule of Lenity Favors Petitioner.

The parties agree that section 3582(c)(1)(A) is unambiguous and thus the rule of lenity should not apply. (Pet. Br. 46; Govt. Br. 49.) That said, the parties also present opposing interpretations of the statute, and should the Court find that the competing interpretations are in equipoise, the Court should rule for Petitioner.

The government argues that section 3582(c)(1)(A) is itself an act of lenity and does not define a penalty. (Govt. Br. 49.) But the rule of lenity applies to “sentencing . . . provisions,” *United States v. Batchelder*, 442 U.S. 114, 121 (1979), and section 3582(c) is a sentencing provision. That the statute is an act of lenity, in which Congress sought to increase the use of such lenity, supports, rather than undercuts, the applicability of the rule in this case.

CONCLUSION

The judgment of the court of appeals should be vacated and the case remanded for further proceedings.

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Respectfully submitted,

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