No. 24-860

IN THE
Supreme Court of the United States

JOHNNIE MARKEL CARTER,

Petitioner,

v.

UNITED STATES,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF CLINICAL LAW PROFESSORS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

DAVID H. KORN
JADEN M. LESSNICK
Cravath, Swaine & Moore LLP
375 Ninth Avenue
New York, NY 10001

ERICA ZUNKEL
Counsel of Record
Criminal and Juvenile Justice Clinic
University of Chicago Law School
6020 S. University Avenue
Chicago, IL 60637
(773) 702-9611
ezunkel@uchicago.edu

Counsel for Amici Curiae

March 4, 2025

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 2

ARGUMENT 4

I. The Circuit Split Produces Severe and Unjustified Sentence Disparities Based on Geography Alone 6

II. The Circuit Split Threatens the Sentencing Commission's Considered Judgment. 18

CONCLUSION 24

TABLE OF AUTHORITIES

Page(s)

Cases

Braxton v. *United States*,
500 U.S. 344 (2001) 7

Buford v. *United States*,
532 U.S. 59 (2001) 4, 7, 19

Guerrant v. *United States*,
142 S. Ct. 640 (2022) 6

Hughes v. *United States*,
584 U.S. 675 (2018) 3

Kimbrough v. *United States*,
552 U.S. 85 (2007) 3

Longoria v. *United States*,
141 S. Ct. 978 (2021) 6

Mistretta v. *United States*,
488 U.S. 361 (1989) 18, 21

Speech First, Inc. v. *Sands*,
144 S. Ct. 675 (2024) 3

United States v. *Andrews*,
12 F.4th 255 (3d Cir. 2021) 10

United States v. *Brooker*,
976 F.3d 228 (2d Cir. 2020) 6

United States v. *Byam*,
2024 WL 1556741 (E.D.N.Y. Apr. 10, 2024) 13–14

United States v. *Chavez*, ___ F. Supp. 3d ___, 2024 WL 4850808 (S.D.N.Y. Nov. 21, 2024) 6

United States v. *Crandall*,
2020 WL 7080309 (N.D. Iowa Dec. 3, 2020) 14–15

United States v. *Crandall*,
2024 WL 945328 (N.D. Iowa Mar. 5, 2024) 15

United States v. *Gordon*,
585 F. Supp. 3d 716 (E.D. Pa. 2022) 10–13

United States v. *Martinez*,
2024 WL 866822 (D. Utah Feb. 29, 2024) 9–10

United States v. *Rutherford*,
120 F.4th 360 (3d Cir. 2024) 11

United States v. *Thacker*,
4 F.4th 569 (7th Cir. 2021) 17

United States v. *Uriarte*,
___ F. Supp. 3d ___, 2024 WL 4111867 (N.D. Ill. Sept. 6, 2024) 16–17

Case Filings

United States v. *Crandall*,
No. 1:89-cr-00021, Dkt. 214 (N.D. Iowa Nov. 1, 2023)....................14

United States v. *Gordon*,
No. 2:99-cr-00348-HB, Dkt. 212 (E.D. Pa. Dec. 26, 2023)....................10–11

United States v. *Gordon*,
No. 2:99-cr-00348-HB, Dkt. 248 (E.D. Pa. July 15, 2024)....................12–13

United States v. *McFarland*,
No. 2:00-cr-01025, Dkt. 496 (C.D. Cal. Dec. 21, 2023)....................15–16

Statutes & Regulations

88 Fed. Reg. 28,256....................20, 24

88 Fed. Reg. 28,258....................23

18 U.S.C. § 924(c)....................9–17

18 U.S.C. § 924(c) (2006)....................9

18 U.S.C. § 3582(c)(1)(A)....................1–4, 19

28 U.S.C. § 994(t)....................2, 4–5, 18–19, 21, 24

First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (2018)....................9

U.S.S.G. § 1B1.13 (2023)....................5, 12

U.S.S.G. § 1B1.13(b)(6) (2023)
....2, 5–7, 9, 11–12, 14–18, 23

U.S.S.G. § 1B1.13(c) (2023)..5

Other Authorities

2022-2023 Proposed Amendments and Public Comment, 88 Fed. Reg. 7180 (Mar. 13, 2023)..1–2, 21–24

Commission '24–'25 Priorities (July 15, 2024)..2

E. Zunkel & J. Lessnick, *Putting the "Compassion" in Compassionate Release: The Need for a Policy Statement Codifying Judicial Discretion*, 35 Fed. Sent'g Rep. 164 (2023)..20

Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines Before the United States Sentencing Commission (Feb. 23, 2023)..1

U.S. Sent'g Comm'n, Compassionate Release Data Report Preliminary Fiscal Year 2024 Cumulative Data Through 4th Quarter (Oct. 2024)..8

U.S. Sent'g Comm'n, Compassionate Release Data Report Preliminary Fiscal Year 2025 Cumulative Data Through 1st Quarter (Feb. 2025)..7–8

U.S. Sent'g Comm'n, Compassionate Release: The Impact of the First Step Act and COVID-19 Pandemic (Mar. 2022) 20

U.S. Sent'g Comm'n, Proposed Amendments to the Sentencing Guidelines (Feb. 2, 2023) 21

U.S. Sent'g Comm'n, Public Meeting Minutes (Apr. 5, 2023) 12

INTEREST OF *AMICI CURIAE*[1]

Amici are clinical professors of law who represent indigent federal prisoners *pro bono* in sentence-reduction proceedings under 18 U.S.C. § 3582(c)(1)(A)(i). They have extensive experience litigating sentence-reduction motions on behalf of individuals in district courts across the country both before and after Sentencing Commission's 2023 policy statement took effect. *Amici*'s clients have been affected directly by the circuit split at issue here—whether changes in the law can contribute to "extraordinary and compelling reasons" for a sentence reduction. *Amici* therefore are well-positioned to explain the far-reaching implications of the circuit split on both an individual and national level.

Amici also are deeply familiar with the Sentencing Commission's amendment to its policy statement, which attempted to address the circuit split in the first instance. *Amici* and certain of their clients provided written and oral testimony and public comments to the Commission about the sentence-reduction policy statement, especially as it pertains to the changes-in-law provision at issue here.[2]

---

[1] Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for a party authored this brief in any part, and that no person or entity, other than *amici* and their counsel, made a monetary contribution to fund its preparation and submission. All parties have been timely notified of the filing of this brief in accordance with Supreme Court Rule 37.2.

[2] See, *e.g.*, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines Before the United States Sentencing Commission (Feb. 23, 2023), https://perma.cc/7TY8-ZSWP (written and oral testimony of Professor Zunkel); 2022–2023 Proposed

Beyond direct client representation in federal court and advocacy before the Commission, *amici* teach, study, and advise on federal sentence-reduction legal issues, which includes authoring scholarly publications, directing student research, conducting trainings, and counseling attorneys around the country on sentence-reduction motions.

Amici submit this brief to offer their insight—based on practical experience and scholarly research—about the importance of this issue for individual prisoners and for ensuring consistency in the law.

A complete list of *amici* is attached as Appendix A.

SUMMARY OF ARGUMENT

There is a deep, mature circuit split over whether courts may consider non-retroactive legal changes when deciding whether a person has presented "extraordinary and compelling reasons" for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A). That circuit split existed well before the Sentencing Commission clarified, pursuant to its express power to "describe what should be considered extraordinary and compelling reasons," 28 U.S.C. § 994(t), that such non-retroactive changes may be considered in only very narrow circumstances, see U.S.S.G. § 1B1.13(b)(6) (2023).

Amendments and Public Comment, 88 Fed. Reg. 7180 (Mar. 13, 2023), https://perma.cc/48QJ-TAK8 (collecting public comments of certain *amici*, including Professors Tinto (PDF p. 1023) and Zunkel (PDF p. 1457)); Commission '24–'25 Priorities (July 15, 2024), https://perma.cc/Q8H2-9UWQ (collecting public comments of certain *amici*, including Professors Guernsey (PDF p. 260); Tinto (PDF p. 1114); and Zunkel (PDF p. 1128)).

The Commission's promulgation of subsection (b)(6), however, did not resolve the split, and many courts continue to apply pre-amendment caselaw categorically barring consideration of legal changes. More than most, this circuit split demands the Court's immediate resolution because of its practical, on-the-ground effects.

First, the circuit split creates severe sentence disparities between similarly situated people based on geography alone. Uniform sentencing for similarly situated defendants is a core principle that runs throughout federal sentencing law. See *Kimbrough* v. *United States*, 552 U.S. 85, 107 (2007) ("[I]t is unquestioned that uniformity remains an important goal of sentencing."). Consistency in the law ensures that differences in sentences, sometimes in the order of years or decades, are justified by the unique characteristics of the individual or case—not by the coincidence of geography. But now, even under the revised policy statement, "a defendant's eligibility for a reduced sentence under 3582(c)[(1)(A)] turns on the Circuit in which the case arises." *Hughes* v. *United States*, 584 U.S. 675, 684 (2018). The consequences of these geographic disparities are severe. Defendants in restrictive circuits are left serving sentences decades longer than similarly situated defendants in other circuits, based on nothing more than the accident of geography. Cf., *e.g.*, *Speech First, Inc.* v. *Sands*, 144 S. Ct. 675, 676 (2024) (Thomas, J., joined by Alito, J., dissenting from GVR) ("Yet, because of the split among the Courts of Appeals, many of these universities face no constitutional scrutiny, simply based on geography."). And data show that those disparities affect a wide swath of federal prisoners across the circuits.

Second, the circuit split vitiates the Sentencing Commission's expertise in achieving "consistent sentencing results among similarly situated offenders sentenced by different courts" in the sentence-reduction system. *Buford* v. *United States*, 532 U.S. 59, 66 (2001). The Commission is tasked with "describ[ing] what should be considered extraordinary and compelling reasons for [a] sentence reduction, including the criteria to be applied." 28 U.S.C. § 994(t). Pursuant to that clear edict, the Commission reviewed thousands of public comments and received testimony from a litany of stakeholders on this issue. Its resolution of the circuit split—subsection (b)(6)—is a considered middle ground that allows judges to consider non-retroactive changes in the law only for a limited set of defendants in a limited set of circumstances. That expert decision-making has little to no effect in at least six circuits.

The Court should grant the Petition.

ARGUMENT

Section 3582(c)(1)(A) allows a judge to reduce a previously-imposed sentence if three substantive factors are satisfied: (1) the movant presents "extraordinary and compelling reasons" that warrant a reduction; (2) a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and (3) the judge considers the 18 U.S.C. § 3553(a) sentencing factors in deciding whether and to what extent a reduction is appropriate. 18 U.S.C. § 3582(c)(1)(A).

The Sentencing Commission is vested with the authority to interpret and operationalize the phrase

"extraordinary and compelling reasons." See 28 U.S.C. § 994(t). For several years after the enactment of the First Step Act of 2018, the Commission lacked a quorum and therefore had been unable to fulfill its statutorily required role to describe "extraordinary and compelling reasons." It regained its quorum in 2022 and promulgated revisions in 2023 to the sentence-reduction policy statement, § 1B1.13.

In the amended policy statement, the Commission has articulated precise conditions under which judges may consider non-retroactive changes in the law in the "extraordinary and compelling reasons" inquiry. Such non-retroactive changes may be considered only if:

1. the defendant is serving "an unusually long sentence";

2. the defendant "has served at least 10 years of the term of imprisonment";

3. there is a "gross disparity" between the defendant's unusually long sentence and the sentence the defendant likely would have received if sentenced under the new law; and

4. the defendant's "individualized circumstances" support relief.

U.S.S.G. § 1B1.13(b)(6) (2023). Outside of these circumstances, "a change in the law . . . shall not be considered for purposes of determining whether an extraordinary and compelling reason exists." *Id.* § 1B1.13(c).

The circuits are split sharply on whether judges may consider non-retroactive changes in the sentence-reduction inquiry. The First, Second, Fourth, Ninth, and Tenth Circuits allow judges to consider such changes. See Pet. 7.[3] The Third, Fifth, Sixth, Seventh, Eighth, and D.C. Circuits do not. See *ibid.* The Commission's promulgation of § 1B1.13(b)(6) did not resolve this split.

I. The Circuit Split Produces Severe and Unjustified Sentence Disparities Based on Geography Alone.

"The present disagreement among the Courts of Appeals means that similarly situated defendants may receive substantially different sentences depending on the jurisdiction in which they are sentenced." *Longoria* v. *United States*, 141 S. Ct. 978, 979 (2021) (Sotomayor, J., joined by Gorsuch, J., respecting the denial of certiorari). The "unresolved divisions among the Courts of Appeals" on the issue presented here has "direct and severe consequences for defendants' sentences." *Guerrant* v. *United States*, 142 S. Ct. 640, 641 (2022) (Sotomayor, J., joined by Barrett, J., respecting the denial of certiorari).

---

[3] The Second Circuit has not squarely addressed the changes-in-law issue, but it has recognized the broad discretion of district courts to consider "the full slate of extraordinary and compelling reasons that an imprisoned person might bring" and has not limited the consideration of changes in law. *United States* v. *Brooker*, 976 F.3d 228, 237 (2d Cir. 2020); see, *e.g.*, *United States* v. *Chavez*, ___ F. Supp. 3d ___, 2024 WL 4850808, at *3–5 (S.D.N.Y. Nov. 21, 2024) (concluding, in the absence of Second Circuit authority to the contrary, that subsection (b)(6) is valid and granting a sentence reduction on that basis).

The Court appropriately left the question presented by the Petition to the Sentencing Commission in the first instance, since "Congress intended [the] Sentencing Commission to play [the] primary role in resolving conflicts over interpretation." *Buford*, 532 U.S., at 66; see, *e.g.*, *Braxton* v. *United States*, 500 U.S. 344, 347–349 (2001) (declining to reach an interpretive issue about the Sentencing Guidelines because, after the Court granted certiorari, the Commission undertook proceedings that would "eliminate [the] circuit conflict"). But now, more than a year after the Sentencing Commission weighed in on the issue, the circuit split has become even more entrenched. Both nationwide data and individual profiles of defendants impacted by this split show that, with respect to sentence-reduction motions raising changes in the law under § 1B1.13(b)(6), the availability of relief between similarly situated defendants turns solely on geography.

1. Sentencing Commission data show that the circuit split has real and far-reaching consequences for hundreds of individuals across the country and has reified geographic disparities. Despite substantially similar caselaw among the circuits except on changes in law, circuits on the permissive side of the split grant sentence-reduction motions on average 22.2% of the time, while circuits with restrictive changes-in-law precedent grant motions only around 9% of the time. See U.S. Sent'g Comm'n, Compassionate Release Data Report Preliminary Fiscal Year 2025 Cumulative Data Through 1st Quarter, Table 3 (Feb. 2025).[4] In the Second Circuit, for example,

[4] https://perma.cc/55N8-28MR.

41.9% of compassionate release motions were granted last year, while courts in the Eighth Circuit granted only 6.7%. See *ibid.*; see also U.S. Sent'g Comm'n, Compassionate Release Data Report Preliminary Fiscal Year 2024 Cumulative Data Through 4th Quarter, Table 3 (Oct. 2024) (comparable disparities for FY 2024).[5] Some natural variations in motion success rates are to be expected, but the more substantial disparities present in the data suggest that the difference in changes-in-law caselaw drives the outcome in a significant number of cases.

The data from the universe of *granted* motions underscore the vast implications of the split, because subsection (b)(6) comprises a substantial proportion of such grants. In the first quarter of Fiscal Year 2025, 15.8% of all sentence-reduction grants nationwide cited subsection (b)(6) as a reason for granting the motion. U.S. Sent'g Comm'n, Fiscal Year 2025, *supra*, at Table 10. Subsection (b)(6) was *the single most cited reason* granting a motion during that period—even though it is largely unavailable in nearly half of the circuits nationwide.

At bottom, the data quantify the obvious: This circuit split is of vast consequences for hundreds of federal prisoners. Judges soundly will exercise their discretion to consider changes in the law on a case-by-case basis. But only half of them are allowed to do so. There is every reason to believe that these data trends will continue without a resolution of the circuit split.

2. Comparing individual case profiles shows precisely how the circuit split produces severe geographic

---

[5] https://perma.cc/34HQ-BFTM.

disparities between similarly situated people. Wally Martinez and Markwann Gordon were convicted of nearly identical conduct—robbery offenses with multiple 18 U.S.C. § 924(c) firearm charges. Initially, they were given similar sentences based on the pre-First Step Act requirement that a second or subsequent § 924(c) conviction carried a 25-year mandatory minimum to be served consecutively—*i.e.*, § 924(c) "stacking." See 18 U.S.C. § 924(c) (2006). In the First Step Act, Congress clarified that the 25-year mandatory minimum may be imposed only when there is a prior § 924(c) conviction,[6] so Martinez and Gordon each would have received dramatically lower sentences today. But because of the circuit split, only Martinez has obtained relief—even though the Sentencing Commission referenced Gordon's case by name as one that falls within the ambit of subsection (b)(6).

A. *Wally Martinez* (Motion Granted, CA10/D. Utah). In 2001, Martinez received a 65-year sentence for his participation in three robberies with a firearm. Only 10 years of the 65-year sentence were attributable to the robberies; the other 55 years were due to § 924(c) stacked charges. *United States* v. *Martinez*, 2024 WL 866822, at *1 (D. Utah Feb. 29, 2024). If he were sentenced today, Martinez would likely have received a total sentence of 15 years. *Id.*, at *4. Martinez sought relief under § 1B1.13(b)(6). In granting his sentence-reduction motion, the district court found that Martinez had satisfied each component of § 1B1.13(b)(6): (1) his 65-year sentence was "unusually long"; (2) he had served over 10 years of his

---

[6] Pub. L. No. 115-391, 132 Stat. 5194, § 403 (2018) ("Clarification of section 924(c) of title 18, United States Code").

sentence; and (3) the 50-year difference in the sentence he would likely receive today constituted a "clear, gross disparity." *Ibid.* The judge also considered Martinez's "individualized circumstances," including that he was in his early twenties when he committed the offenses, his hundreds of hours of educational programming, and his stellar prison disciplinary record. *Id.*, at *6. After considering the § 3553(a) sentencing factors, the district court reduced Martinez's sentence to time served, which amounted to approximately 22 years in custody. *Id.*, at *7–8.

B. *Markwann Gordon* (Motion Denied, CA3/E.D.P.A.). Gordon received a 140-year sentence for his involvement in multiple bank robberies in the late 1990s. 125 of these years were the result of stacked § 924(c) penalties. If he were sentenced for the same offenses today, Gordon's minimum sentence for the § 924(c) counts would be 35 years—a full 105 years shorter than the sentence he received initially. *United States* v. *Gordon*, 585 F. Supp. 3d 716, 719 (E.D. Pa. 2022). In 2022, Gordon moved for a sentence reduction primarily based on the legal changes to § 924(c) stacking. Although the district judge recognized that Gordon "would not receive such a harsh sentence were he to be sentenced today," he denied the motion based on the Third Circuit's decision in *United States* v. *Andrews*, 12 F.4th 255 (3d Cir. 2021), which concluded that non-retroactive legal changes cannot be a basis for a sentence reduction. *Gordon*, 585 F. Supp. 3d, at 720–721.

In 2023, after the Sentencing Commission's amendment to add subsection (b)(6), Gordon again moved for a sentence reduction. Motion for Compassionate Release, *Gordon*, Dkt. 212 (E.D. Pa. Dec. 26,

2023). Gordon's motion was denied, see *id.*, at Dkt. 268, this time based on *United States* v. *Rutherford*, 120 F.4th 360 (3d Cir. 2024), despite the fact that he meets all the factors of § 1B1.13(b)(6): (1) he is serving an unusually long sentence; (2) he has been incarcerated for over 10 years; and (3) the multi-decade difference between his sentence and the one he would likely receive today presents a "gross disparity." *Martinez*, 2024 WL 866822, at *4. But because the Third Circuit categorically forecloses judges from considering any changes in the law in deciding whether a person is eligible for a sentence reduction, Gordon was denied relief. And as a consequence, the judge could not consider Gordon's "individualized circumstances"—including that Gordon was in his early twenties at the time of his offenses, had completed over 500 hours of educational programming, and had not received a single disciplinary violation in over a decade. *Gordon*, 585 F. Supp. 3d, at 719–720.

Martinez and Gordon were similarly situated in nearly all material respects, until Martinez was granted relief and Gordon was denied it. Both were serving unusually long sentences—65 years and 140 years, respectively—overwhelmingly the result of stacked § 924(c) penalties that could not be imposed today. Both had served more than 10 years of that sentence. Both would face sentences decades shorter if sentenced today. Both were young men at the time of their offenses, and both had compelling records of rehabilitation.

The difference in outcome between Martinez's and Gordon's cases is solely the product of geography. In fact, Gordon's judge remarked that he had "rarely seen a case as compelling as [Gordon's] for a

defendant's release from prison." *Gordon*, 585 F. Supp. 3d, at 722. But because of controlling Third Circuit precedent on the changes in law issue, Gordon's judge "regrettably" was required to deny the motion. *Id.*, at 723. Put another way, but for restrictive circuit caselaw, Gordon's sentence would have been reduced to time served like Martinez's sentence.

That result is particularly troubling because the Sentencing Commission specifically cited Gordon's case in support of its changes-in-law provision, § 1B1.13(b)(6). In announcing the Commission's amendments to § 1B1.13, Commission Chair Judge Carlton Reeves explained, "the Commission's inability to describe extraordinary and compelling reasons led to injustices. I think of . . . Markwann Gordon, a person serving over 1,600 months in federal prison on robbery and firearms charges who wrote to us to increase opportunities for second chances." U.S. Sent'g Comm'n, Public Meeting Minutes at 4–5 (Apr. 5, 2023).[7] Chair Judge Reeves highlighted the fact that Gordon's judge was unable to exercise his discretion to grant release because of the circuit split. *Ibid.*

The disparity between Gordon's sentence and Martinez's is even more obvious in light of recent developments in Gordon's case. Following a successful 28 U.S.C. § 2255 challenge to several of his § 924(c) counts, Gordon was resentenced. See Sent'g Tr., *Gordon*, Dkt. 248 (E.D. Pa. July 15, 2024). If he were able, the judge would have sentenced Gordon to time served. The judge was "totally convinced that [Gordon is] totally reformed and that a further punishment is

---

[7] https://perma.cc/UW3B-ZQYE.

no longer necessary." *Id.*, at 52. But under binding circuit precedent, Gordon was resentenced under pre-First Step Act law. The judge therefore had to impose a 65-year sentence for the remaining stacked § 924(c) counts. *Id.*, at 48. This sentence, according to the judge, "is totally unwarranted at this stage, in 2024. I think it's unjustified, and it's a very painful day for all of us." *Id.*, at 54.

Because of the circuit split, Gordon remains imprisoned serving a 65-year *de facto* life sentence while Martinez—who also was sentenced to 65 years on materially identical charges—is free.

3. The difference in sentence-reduction motion outcomes between Edward Byam and Barton Crandall also is striking. Both men were convicted of similar robbery offenses with stacked § 924(c) charges at a young age, both had support from Federal Bureau of Prisons (BOP) staff members for their motions, and both had a record of extensive BOP programming. But only one man was able to receive relief.

A. *Edward Byam* (Motion Granted, CA2/E.D.N.Y.). Byam was sentenced to 32 years and one day in prison for his involvement in two armed robberies when in his early twenties. *United States* v. *Byam*, 2024 WL 1556741, at *1 (E.D.N.Y. Apr. 10, 2024). Thirty-two years of his sentence resulted from mandatory § 924(c) firearms charges; the judge imposed "only one additional day" for the other charges. *Ibid.* If sentenced for the same offenses today, Byam would face a 14-year mandatory minimum instead of 32 years on the § 924(c) charges. *Ibid.* In granting Byam's sentence-reduction motion in 2024, the court found that Byam satisfied each factor under

§ 1B1.13(b)(6): (1) his sentence was "unusually long"; (2) he had served over 11 years of his sentence; and (3) the 18-year difference between the sentence he received and what he would receive today constituted a "gross disparity." *Id.*, at *6. The judge also considered Byam's individualized circumstances. *Id.*, at *6–8. Several BOP employees, for instance, corroborated Byam's "character, work ethic, responsibility, and compassion for other inmates." *Id.*, at *8. The court highlighted Byam's "substantial rehabilitation for over a decade, improving himself as it pertains to education, employability, and other social achievements." *Ibid.*

B. *Barton Crandall* (Motion Denied, CA8/N.D. Iowa). At age 25, Crandall was sentenced to almost 47 years' imprisonment for his role in two armed bank robberies. *United States* v. *Crandall*, 2024 WL 945328, at *1 (N.D. Iowa Mar. 5, 2024). Twenty-five years of his sentence were the result of § 924(c)'s mandatory stacked penalties. Today, Crandall's likely sentence would be approximately 18 years, and he has been incarcerated for more than 10 years. See Memorandum of Law in Support of Motion to Reduce Sentence, *United States* v. *Crandall*, No. 1:89-cr-00021, Dkt. 214, at 2 (N.D. Iowa Nov. 1, 2023). The difference between the sentence Crandall received and the one he would likely receive today represents a disparity of 29 years, over a decade longer than the disparity supporting Byam's sentence reduction. The district judge highlighted Crandall's "significant strides toward rehabilitation" during his incarceration. *Crandall*, 2024 WL 945328, at *10. As such, Crandall also met the exacting criteria of § 1B1.13(b)(6). The district judge, however, could not analyze the merits of Crandall's

argument, concluding that § 1B1.13(b)(6) exceeded the Commission's authority and was inconsistent with pre-amendment Eighth Circuit caselaw. *Id.*, at *9. Accordingly, the judge denied Crandall's motion, as he had done in 2020 before the Commission's amendments. See *United States* v. *Crandall*, 2020 WL 7080309, at *7 (N.D. Iowa Dec. 3, 2020).

Byam and Crandall were similarly situated, but geography was dispositive of whose motion could be considered on the merits. They both had received unusually long sentences for similar offenses. They both had served more than a decade of those sentences. And both their sentences presented a "gross disparity" of more than 15 years when compared to the sentences they likely would have received if sentenced today. The two also were similarly situated with respect to their individualized circumstances. In fact, their respective judges used identical language in describing each man's "significant strides towards rehabilitation." But, based on the circuit split, Byam's motion was granted while Crandall's was denied.

4. Donte McFarland and Jorge Uriarte provide another clear example of significant sentence disparities produced by the circuit split, notwithstanding similar offense conduct, including § 924(c) convictions.

A. *Donte McFarland* (Motion Granted, CA9/C.D. Cal.). In 2001, McFarland received a 41-year sentence that even his own sentencing judge called "beyond draconian." *United States* v. *McFarland*, No. 2:00-cr-01025, Dkt. 496, at 2 (C.D. Cal. Dec. 21, 2023). Thirty-two years of that sentence were required by § 924(c) stacking. *Id.*, at 6. If he were sentenced for

the same offenses today, the low end of his Guidelines range would be roughly 23 years (amounting to the time he had already served in prison) and the § 924(c) counts would mandate 14 years, not 32 years. *Ibid.* McFarland brought a motion under § 1B1.13(b)(6). When granting his sentence-reduction motion, the district court found that McFarland had satisfied every prong of § 1B1.13(b)(6). *Ibid.*

Because § 1B1.13(b)(6) did not conflict with pre-amendment Ninth Circuit caselaw, see *id.*, at 5, the court proceeded to a full consideration of McFarland's "individualized circumstances" under § 1B1.13(b)(6) and determined that he presented "extraordinary and compelling reasons" for a sentence reduction. *Ibid.* The court highlighted McFarland's young age at the time of the offenses, rehabilitation, and a recent sentence reduction for McFarland's co-defendant, which would create an unwarranted sentencing disparity if relief was not granted. *Ibid.* After considering the § 3553(a) factors, the court granted McFarland's motion and reduced his sentence to the 23 years it likely would be today. *Id.*, at 7–8.

B. *Jorge Uriarte* (Motion Denied, CA7/N.D. Ill.). Uriarte is serving a 40-year sentence, 30 years of which resulted from § 924(c) stacking. *United States* v. *Uriarte*, ___ F. Supp. 3d ___, 2024 WL 4111867, at *1 (N.D. Ill. Sept. 6, 2024). Uriarte was charged with multiple co-defendants, several of whom were indisputably more culpable in the offenses than him. *Ibid.* Today, Uriarte's mandatory minimum under § 924(c) would be just 15 years, not 30 years. *Ibid.* In 2016, the Seventh Circuit remanded the case for re-sentencing. *Ibid.* Uriarte was re-sentenced just weeks before the First Step Act was passed. His co-defendants,

however, were re-sentenced after the law's enactment. As a result, only the co-defendants, not Uriarte, benefitted from the First Step Act's monumental changes to § 924(c) stacking. *Id.*, at *1–2. As the judge put it, "[o]n remand, accidents of timing produced . . . 'problematic disparities.'" *Id.*, at *1. Despite "[n]o party disput[ing]" that Uriarte met subsection (b)(6)'s criteria, the district judge concluded that the Seventh Circuit's decision in *United States* v. *Thacker*, 4 F.4th 569 (7th Cir. 2021), remained "binding" and required denying the motion. *Id.*, at *5. The court, however, emphasized that it "would not hesitate to follow" § 1B1.13(b)(6) "had it the authority to do so." *Ibid.* The court noted several reasons for this: (1) "the gross disparity" between Uriarte's sentence and that of his "more culpable co-defendants"; (2) the unfairness of § 924(c) stacking at the time of sentencing; (3) the increasingly "egregious" unfairness "in light of the fact that his co-defendants received the benefit" of the First Step Act's amendments to § 924(c) stacking and he did not; and (4) Uriarte's rehabilitation. *Ibid.* "[T]he court believes Jorge Uriarte's . . . [m]otion . . . should be granted and his sentence should be reduced to time served." *Ibid.*

McFarland and Uriarte were similarly situated with regard to their lengthy sentences due to § 924(c) stacking and the disparities produced by the change in law, but once again, geography was dispositive in who received relief. Both McFarland and Uriarte were serving sentences that would be significantly shorter today. At the time of their motions, both men's sentences produced jarring disparities with the sentences of their more or equally culpable co-defendants. With no conflicting circuit caselaw, McFarland's

judge could consider both disparities under § 1B1.13(b)(6). Uriarte's judge, on the other hand, was not permitted to consider either disparity. Instead, solely because of Seventh Circuit precedent, the district court had to deny Uriarte's motion, despite the court's assertion that it would have granted relief if it had the authority to do so.

5. The foregoing profiles are just a handful of examples of the geographic disparities that pervade the sentence-reduction landscape and compel review by this Court. Appendix B is a table compiling additional cases in which geography is a primary, if not dispositive, factor driving disparate outcomes.

II. The Circuit Split Threatens the Sentencing Commission's Considered Judgment.

The circuit split also must be resolved because it undermines the Sentencing Commission's reasonable and expert resolution of this issue. *Amici* participated in the extensive, deeply considered process by which the Sentencing Commission arrived at its current policy statement, which involved robust debate, testimony, commentary, and other input from experts and stakeholders over several months. The disuniformity caused by the circuit split is an anathema to the scheme Congress created—one characterized by what Justice Scalia called the Commission's "special knowledge and expertise" in matters of sentencing. *Mistretta* v. *United States*, 488 U.S. 361, 396 (1989). The decision below impairs the Commission's comprehensive work, which Congress has instructed must be the guiding principle under the statute. See 28 U.S.C. § 994(t).

1. Uniformity among similarly situated defendants is central to the Sentencing Commission's mission. As the Court unanimously explained in *Buford*, the Commission can "produce more consistent sentencing results among similarly situated offenders sentenced by different courts." 532 U.S., at 66. The process by which it achieves that uniformity is iterative and expert driven. "[T]he Sentencing Commission itself gathers information on the sentences imposed by different courts, it views the sentencing process as a whole," and it develops "a broad perspective on sentencing practices throughout the Nation" before revising its policy statements, the Guidelines, or application notes. *Ibid.*

Congress could not have been more clear that the Commission must bring that expertise to bear in implementing a uniform sentence-reduction scheme:

> The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(1)(A) of title 18, *shall describe what should be considered extraordinary and compelling reasons* for sentence reduction, including the criteria to be applied and a list of specific examples.

28 U.S.C. § 994(t) (emphasis added). Therefore, "Congress intended [the] Sentencing Commission to play [the] primary role in resolving conflicts over interpretation" about § 3582(c)(1)(A)'s phrase "extraordinary and compelling." *Buford*, 532 U.S., at 66.

2. When Congress enacted the First Step Act of 2018, it amended § 3582(c)(1)(A) to allow defendants

to file sentence-reduction motions directly with courts, a departure from the pre-First Step Act rule that only the BOP could move for sentence reductions.

That change had an unintended effect. The Sentencing Commission's then-operative policy statement applied only to BOP-initiated motions. But at the time, the Commission lacked a quorum to update its policy statement. See 88 Fed. Reg. 28,256. So, every Court of Appeals but the Eleventh Circuit held that the Commission's operative policy statement was not "applicable" to defendant-initiated motions. See U.S. Sent'g Comm'n, Compassionate Release: The Impact of the First Step Act and COVID-19 Pandemic 2 (Mar. 2022).[8]

In the interim, district courts exercised broad discretion to identify "extraordinary and compelling reasons," even if those reasons were not covered by the inapplicable policy statement. See E. Zunkel & J. Lessnick, *Putting the "Compassion" in Compassionate Release: The Need for a Policy Statement Codifying Judicial Discretion*, 35 Fed. Sent'g Rep. 164, 164–166 (2023). But without the Commission's guidance, some circuits developed their own stop-gap limits on that discretion. In the vacuum left by the Commission's lack of quorum, a "sharp circuit split" emerged "as to whether nonretroactive changes in the law can constitute legitimate bases for compassionate release." *Id.*, at 168.

3. When the Commission regained its quorum, it set out to bring uniformity to the sentence-reduction system. Its process was thorough, rational, and

[8] https://perma.cc/KJ5Q-HKCY.

expert-driven. The circuit split threatens to usurp the "special knowledge and expertise," *Mistretta*, 488 U.S., at 396, that Congress intended to characterize the sentence-reduction scheme, see 28 U.S.C. § 994(t).

The Commission's early proposal for a changes-in-law provision—before any public hearings and testimony—was much broader than the provision it ultimately adopted. The first proposal would have allowed a judge to find an "extraordinary and compelling reason" for a sentence reduction if "[t]he defendant is serving a sentence that is inequitable in light of changes in the law." U.S. Sent'g Comm'n, Proposed Amendments to the Sentencing Guidelines 6 (Feb. 2, 2023).[9]

In February 2023, the Commission received thousands of public comments and took hours of testimony from a wide array of stakeholders on this question. And after its public hearing, it received even more public comments. The comments and testimony reflected a panoply of perspectives about the changes in the law provision. See generally 2022–2023 Proposed Amendments and Public Comment, 88 Fed. Reg. 7180[10] [hereinafter "Public Comments"[11]] (collecting samples of hundreds of public comments).

The Commission read comments and heard testimony about how the circuit split on this issue created geographic disparities. See, *e.g.*, *id.* 1162 (NACDL) ("the true disparities are the geographic and temporal

---

[9] https://perma.cc/6R4M-AV54.

[10] https://perma.cc/PH3V-738S.

[11] Pin cites refer to PDF pagination.

disparities between similarly situated defendants"), 1256 (Sentencing Project) ("This deep circuit split has created profoundly unequal and arbitrary access to post-conviction justice."), 388 (DOJ) (noting the "uncertainty, circuit conflicts, and sentencing disparities that have proliferated in the absence of any binding policy statement"), 1472 (E. Zunkel) ("A person's ability to obtain relief based on changes in the law is entirely dependent on the luck of their jurisdiction of conviction.").

The comments and testimony on the changes in the law provision allowed the Commission to consider a diversity of perspectives and alternatives. Some commentators argued in favor of the wholesale adoption of the Commission's proposed provision. See, *e.g.*, *id.* 1066 (FAMM) ("this proposed amendment will actually help minimize the sentencing disparity that currently exists" (emphasis deleted)), 1131 (Law Enforcement Leaders to Reduce Crime & Incarceration) ("the Commission's proposal would simply permit judges in individual cases to determine whether an extreme disparity exists between the sentence a person received and the sentence they would be exposed to today"), 299 (Senators Durbin, Booker, and Hirono). Others advocated for a categorical bar on consideration of changes in the law. See, *e.g.*, *id.* 321 (Judge Carnes) (suggesting that if the changes-in-law provision were adopted, "district and appellate courts will soon be overwhelmed by release motions", and that the phrase "inequitable" is too vague), 397 (DOJ).

Many commentators—certain *amici* among them—suggested narrowing the changes-in-law provision to minimize any likelihood of conflict with other statutes. Professor Zunkel, for example, proposed

"clarification about the scope of the changes in the law that [were] covered" by the Commission's early proposal. *Id.* 1465 (E. Zunkel); see also *id.* 1163 (NACDL) ("However, to make clear that the proposed amendment applies 'changes in the law' in an individualized manner, and not to all defendants *en masse*, we recommend that the language be modified . . . ."), 956–957 (Aleph Institute and Center for Justice and Human Dignity).

It is no accident that the Commission's final policy statement includes the "gross disparity" limitation, the amount-of-time-served limitation (10 years or more), and the "unusually long sentence" limitation. Those guardrails come straight from recommendations made by many commentators and witnesses. For example, Davis Polk & Wardwell LLP's Pro Bono Department suggested providing additional criteria, namely, "a situation where a change in law has resulted in a defendant's existing sentence being *grossly disproportionate* to the sentence that a defendant would now receive for the same crime as a result of the change in law." *Id.* 1452 (emphasis added). Other comments suggested that the changes in the law provision should apply to "unusually long" sentences. *Id.* 493 (Federal Public and Community Defenders); *accord id.* 375 (Chief Judge John McConnell, U.S. District Court for District of Rhode Island); cf. *id.* 392 (DOJ) ("The Department . . . is concerned about equity in the criminal justice system, including as it pertains to unusually long sentences.").

4. Section 1B1.13(b)(6)—the changes-in-law provision ultimately adopted by the commission—"respond[s] to a circuit split concerning" the non-retroactivity question. 88 Fed. Reg. 28,258. The final rule "is

informed by Commission data," as well as "extensive public comment, including from the Department of Justice, the Federal Public and Community Defenders, the Commission's advisory groups, law professors, currently and formerly incarcerated individuals, and other stakeholders in the federal criminal justice system." *Id.* 28,256.

Reflecting the iterative process of amending the policy statement, subsection (b)(6) is far narrower than the Commission's early proposal. It applies to only a limited set of defendants (those who have served 10 or more years of an unusually long sentence) and in only a limited set of circumstances (if the change in the law produces a disparity that is grossly disproportionate to the person's current sentence, and only after a judge considers the person's individualized circumstances).

The circuit split not only reifies sentence disparities, but it also vitiates the Commission's expertise in arriving at a narrowly tailored resolution to the non-retroactivity question. The Commission has now spoken directly to the issue. There is nothing more it could do to address the disagreement over caselaw about changes in the law. This Court's intervention is necessary to enforce Congress's expectation that the Commission resolve disparities arising from disagreements over the phrase "extraordinary and compelling." See 28 U.S.C. § 994(t).

CONCLUSION

Amici respectfully urge this Court to grant the Petition.

Respectfully submitted,

DAVID H. KORN
JADEN M. LESSNICK
Cravath, Swaine & Moore LLP
375 Ninth Avenue
New York, NY 10001

ERICA ZUNKEL
Counsel of Record
Criminal and Juvenile Justice Clinic
University of Chicago Law School
6020 S. University Ave.
Chicago, IL 60637
(773) 702-9611
ezunkel@uchicago.edu

Counsel for Amici Curiae

APPENDIX

TABLE OF APPENDICES

Page

APPENDIX A: LIST OF *AMICI* 1a

APPENDIX B: TABLE OF GEOGRAPHIC DISPARITIES 2a

APPENDIX A: LIST OF *AMICI*

Amici file this brief in their individual capacities, and not as representatives of the institutions with which they are affiliated.

Ingrid Eagly
Professor of Law
Faculty Co-Director, Criminal Justice Program
University of California-Los Angeles School of Law

Alison Guernsey
Clinical Professor of Law
Director, Federal Criminal Defense Clinic
University of Iowa College of Law

JaneAnne Murray
Associate Clinical Professor of Law
Director, Clemency Project Clinic
University of Minnesota Law School

Amanda Rogers
Visiting Professor of Law
Georgetown Law School

Katharine Tinto
Clinical Professor of Law
Director, Criminal Justice Clinic
University of California-Irvine School of Law

Erica Zunkel
Clinical Professor of Law
Director, Criminal and Juvenile Justice Clinic
University of Chicago Law School

APPENDIX B: TABLE OF GEOGRAPHIC DISPARITIES

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Second Circuit (Permissive)					
United States v. *Donato*, 2024 WL 1513646 (E.D.N.Y. Apr. 8, 2024)	Carjacking; stacked § 924(c)s	115	50	65	Granted
United States v. *Vasquez*, 735 F. Supp. 3d 124 (E.D.N.Y.	Drug offenses; Hobbs Act; stacked § 924(c)s	49 (after prior reduc-tion)	10 years on § 924(c) counts + any additional sentence on other counts	15 years on § 924(c) counts	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
May 23, 2024)					
United States v. *Aguiar*, 735 F. Supp. 3d 136 (E.D.N.Y. May 28, 2024)	Drug offenses	Three life terms and concurrent 10-year term	30 to life	--	Granted
United States v. *Monk*, 2024 WL 3936351 (S.D.N.Y.	Drug offenses; § 851 enhancement	24	15	9	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Aug. 26, 2024)					
United States v. *Chavez*, 2024 WL 4850808 (S.D.N.Y. Nov. 21, 2024)	Drug offenses; § 851 enhancement; stacked § 924(c)s	55	40	15	Granted
United States v. *Patterson*, 2024 WL 4872784	Drug offenses; stacked § 924(c)s	25	15	10	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
(S.D.N.Y. Nov. 21, 2024)					
Third Circuit (Restrictive)					
United States v. *Rutherford*, 120 F.4th 360 (3d Cir. 2024)	Hobbs Act Robbery; stacked § 924(c)s	42.5	24.5	18 years	Denied
United States v. *Carter*, 711 F. Supp. 3d 428 (E.D.	Armed Bank Robbery; stacked § 924(c)s	70	38.5 to 42.8	31.5 to 27.2	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Pa. Jan. 12, 2024)					
United States v. *Johnson*, 2024 WL 665179 (E.D. Pa. Feb. 16, 2024)	Bank Robbery; stacked § 924(c)s	69.5	"significantly shorter"	--	Denied
United States v. *Norwood*, 2024 WL 2151239	Bank Robbery; ACCA; stacked § 924(c)s	41.5	31.5 or less	At least 10 years	Denied

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
(D.N.J. May 13, 2024)					
United States v. *Wilson,* 2024 WL 4793713 (E.D. Pa. Nov. 14, 2024)	Bank Robbery; stacked § 924(c)s	43.25	25.25	18	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Fourth Circuit (Permissive)					
United States v. *Legrand*, 2024 WL 2941282 (D. Md. June 11, 2024)	Conspiracy to Commit Robbery; Hobbs Act Robbery; stacked § 924(c)s	40	22	18	Granted in Part
United States v. *James Baylor*, 2024 WL 3093573 (E.D. Va.	Hobbs Act Robbery; stacked § 924(c)s	42.8	23–25.4	17.4–19.6	Granted in Part

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
June 20, 2024)					
Reed v. *United States*, 2024 WL 3153221 (E.D. Va. June 24, 2024)	Drug offenses; stacked § 924(c)s	65	50	15	Granted
United States v. *Troy Baylor*, 2024 WL 3732460 (E.D. Va.	Hobbs Act Robbery; stacked § 924(c)s	52	34	18	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Aug. 6, 2024)					
United States v. *Bell*, No. CR RDB-09-219, 2024 WL 3849533 (D. Md. Aug. 16, 2024)	Armed Robbery; stacked § 924(c)s	27.6 (after prior reduction)	As low as 14 years	13.6	Granted in Part
Fifth Circuit (Restrictive)					
United States v. *Brown*, 715	Armed Bank Robbery;	132	52	80	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
F. Supp. 3d 992 (S.D. Tex. 2024)	stacked § 924(c)s				
United States v. *Allen*, 2024 WL 2784802 (E.D. La. May 30, 2024)	Drug offenses; § 851 enhancement	240	--	--	Denied
Sixth Circuit (Restrictive)					
United States v. *Savoca*, 2024 WL	Bank Robbery; stacked § 924(c)s	77.25	--	--	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
4711307 (N.D. Ohio Nov. 7, 2024)					
United States v. *Yaromich*, 2024 WL 4987404 (N.D. Ohio Dec. 5, 2024)	Bank Robbery; stacked § 924(c)s	50.8	20.8	30	Denied
United States v. *Mitchell*,	Armed Bank Robbery;	35	20	15	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
2024 WL 3673533 (E.D. Mich. Aug. 6, 2024)	stacked § 924(c)s				
United States v. *Wilson*, 2024 WL 1556313 (N.D. Ohio Apr. 10, 2024)	Drug offenses; stacked § 924(c)s	46.8	31.8–38.8	8–15	Denied
United States v.	Carjacking;	50.25	26.25	24	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
McHenry, 2024 WL 1363448 (N.D. Ohio Mar. 29, 2024)	stacked § 924(c)s				
United States v. *Smith*, 2021 WL 4502861 (M.D. Tenn. Oct. 1, 2021)	Drug offenses; § 851 enhancement	Life	15–23	Decades	Denied

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
Seventh Circuit (Restrictive)					
United States v. *Brown*, 2024 WL 4728896 (C.D. Ill. Nov. 8, 2024)	Drug offenses; § 851 enhancement	Life	25	Decades	Denied
United States v. *Watford*, 2024 WL 3633906 (N.D. Ind.	Bank Robbery; stacked § 924(c)s	66.8	36.8	30	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
July 30, 2024)					
United States v. *Billingsly*, 2024 WL 3520366, (S.D. Ind. July 23, 2024)	Drug offenses; stacked § 924(c)s	35	--	--	Denied

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
United States v. *Neubert*, 2024 WL 3520361 (S.D. Ind. July 23, 2024)	Armed Robbery; stacked § 924(c)s	32	14	18	Denied
United States v. *Taylor*, __ F. Supp. 3d __, 2024 WL 3520358 (S.D. Ind.	Armed Robbery; stacked § 924(c)s	37	16	21	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
July 23, 2024)					
United States v. *Spaulding*, 2024 WL 3252397 (S.D. Ind. June 28, 2024)	Drug offenses; stacked § 924(c)s	30 years and 1 day	10	20	Denied
United States v. *Robinson*, 2024 WL 2816925	Armed Bank Robbery; stacked § 924(c)s	35	20	15	Denied

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
(S.D. Ind. May 31, 2024)					
United States v. *Buggs*, 2024 WL 2130566 (N.D. Ind. May 13, 2024)	Armed Bank Robbery; stacked § 924(c)s	31.5	As low as 10 years and 1 day	20+ years	Denied
United States v. *Williams*, 742 F. Supp. 3d	Armed Bank Robbery; stacked § 924(c)s	45.5 (defendant 1); 37 (defendant 2)	22.5 (defendant 1); 15 (defendant 2)	23 (defendant 1); 22 (defendant 2)	Denied

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
823 (C.D. Ill. 2024)					
United States v. *Black*, 715 F. Supp. 3d 1069 (N.D. Ill. 2024)	Conspiracy; stacked § 924(c)s	40	20	20	Denied
United States v. *Tichenor*, 2024 WL 3252501 (S.D. Ind.	Armed Robbery; stacked § 924(c)s	25	7–8.75	16.25–18	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
June 28, 2024)					
United States v. *Robinson*, 2024 WL 2816925 (S.D. Ind. May 31, 2024)	Armed Robbery; stacked § 924(c)s	35	15	20	Denied
Eighth Circuit (Restrictive)					
United States v. *Henderson*, 2024 WL	Drug offenses; § 851 enhancement	Life	24.3–30.4	Decades	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
881253 (E.D. Mo. Feb. 23, 2024)					
United States v. *Loggins*, No. 02-cr-142, dkt. 197 (S.D. Iowa Mar. 4, 2024)	Hobbs Act Robbery; stacked § 924(c)s	42 (29.4 after prior reduction)	As low as 24 years	18	Denied
United States v. *Delacruz*, 2023	Drug offenses; § 851 enhancement	Life	As low as 25 years	Decades	Denied

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
WL 5628357 (D.N.D. Aug. 31, 2023)					
United States v. *Gashe*, 2020 WL 6276140 (N.D. Iowa Oct. 26, 2020)	Drug offenses; stacked § 924(c)s	44	24	20	Denied
Ninth Circuit (Permissive)					
United States v. *Conmy*, No.	Drug offenses; § 851 enhancement	Life	As low as 10 years	Decades	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
2:05-cr-83-KJD-GWF, dkt. 211, 220 (D. Nev. Feb. 16, 2024)					
United States v. *Blackbird*, 2024 WL 3552446 (D. Mont. July 26, 2024)	Drug offenses; § 851 enhancement	25	15	10	Granted
United States v.	Armed Bank Robbery;	39	21.25–24	17.75–15	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Vidrine, 2024 WL 3917152 (E.D. Cal. Aug. 23, 2024)	stacked § 924(c)s				
United States v. *Wiley*, 2024 WL 3992325 (D. Nev. Aug. 29, 2024)	Armed Robbery; stacked § 924(c)s	69 and 1 month (after resentencing)	11.83	57	Granted in Part

Case Cite	**Principal Offense(s)**	**Original Sentence Length (years)**	**Likely Sentence if Imposed Today (years)**	**Disparity (years)**	**Outcome**
United States v. Pineda, 2024 WL 4480213 (Oct. 11, 2024)	Drug offenses; § 851 enhancement	Life	14–25	Decades	Granted
United States v. *Jones*, 482 F. Supp. 3d 969 (N.D. Cal. 2020)	Armed Robbery; stacked § 924(c)s	29.75	14.75	15	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
United States v. *Lii*, 528 F. Supp. 3d 1153 (D. Haw. 2021)	Drug offenses; § 851 enhancement	Life	15	Decades	Granted
United States v. *Mitsuyoshi*, 2022 WL 819436 (D. Haw. Mar. 17, 2022)	Drug offenses; § 851 enhancement	20	10.83–13.5	6.5–9.17	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
United States v. *Rutkowski*, 2022 WL 1597382 (D. Haw. May 19, 2022)	Drug offenses; § 851 enhancement	Life	27 or fewer	Decades	Granted
United States v. *Jordan*, 2021 WL 3612400 (D. Nev. Aug. 13, 2021)	Armed Robbery; stacked § 924(c)s	60.83	22.83	38	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
United States v. *Cisneros*, 2022 WL 17417284 (D. Haw. Dec. 5, 2022)	Drug offenses; § 851 enhancement	Life	20	Decades	Granted
United States v. *Wells*, 2022 WL 1720987 (D. Nev. May 27, 2022)	Armed Robbery; stacked § 924(c)s	107 (after prior reduction)	35	72	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
Tenth Circuit (Permissive)					
United States v. *Brooks,* 717 F. Supp. 3d 1087 (N.D. Okla. 2024)	Robbery; stacked § 924(c)s	36.25	18.25	18	Granted
United States v. *Eads,* 2024 WL 4201605 (D. Colo. Sept. 16, 2024)	Drug offenses; § 851 enhancement	Life + 30	85	Decades	Granted

Case Cite	Principal Offense(s)	Original Sentence Length (years)	Likely Sentence if Imposed Today (years)	Disparity (years)	Outcome
United States v. *Doddles*, 2024 WL 4521379 (W.D. Okla. Oct. 17, 2024)	Drug offenses; stacked § 924(c)s	40	15	25	Granted
United States v. *Barkley*, 2024 WL 5233183 (N.D. Okla. Dec. 27, 2024)	Armed Robbery; stacked § 924(c)s	43.25	24–26.5	16.75–19.25	Granted