No. 25-551

IN THE

Supreme Court of the United States

UNITED STATES,

Petitioner,

v.

SHAHEEM JOHNSON,

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

BRIEF IN OPPOSITION

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INTRODUCTION

Shaheem Johnson was born to a heroin addict, molested and abused throughout his childhood, and dragooned into the drug trade as a teenager. Pet. App. 35a. But after he was arrested almost thirty years ago, convicted, and given a life sentence, he turned his life around, becoming by all accounts a model prisoner who has spent hundreds of hours bettering himself and others. *Id.* 31a-33a.

In 2023, a district court judge held that "extraordinary and compelling reasons" warrant a reduction in Mr. Johnson's sentence under 18 U.S.C. § 3582(c)(1)(A), the so-called compassionate-release statute. Pet. App. 21a, 30a. The court pointed to Mr. Johnson's remarkable rehabilitation, his relative youth at the time he committed his crimes, letters from the sentencing judge and jury foreman attesting that they did not think Mr. Johnson deserved a life sentence, disparities between Mr. Johnson's sentence and his coconspirators', and other considerations. *Id.* 31a-56a. The Fourth Circuit affirmed, relying solely on the sentencing disparities consideration. *Id.* 8a-9a. Mr. Johnson now has a release date of July 19, 2028. *See id.* 65a.

The Government asks this Court to hold Mr. Johnson's case for three pending cases. *See* Pet. 7. But none of those cases has anything to do with sentencing disparities among codefendants. Indeed, the Government makes no effort to connect the questions presented in those cases with the basis on which the Fourth Circuit ruled for Mr. Johnson. *Id.* Nor does it suggest that a GVR might change the district court's ultimate grant of relief. *Id.* But a GVR *would* threaten to keep Mr. Johnson incarcerated past the release date

granted by the district court, on a sentence that at least four federal judges have agreed is unjust.

Because the Government cannot show that a GVR would be warranted in this case, there is no reason for the Court to hold this petition. It should deny certiorari.

STATEMENT OF THE CASE

A. Factual background

1. Shaheem Johnson's mother became addicted to heroin at age thirteen and gave birth to Shaheem and his twin brother just a few years later. *See* C.A. J.A. 753, 755. She used drugs throughout her pregnancy, and the twins were born addicted to opioids. *Id.* 753. State officials immediately placed Shaheem into emergency foster care. *Id.* 753-54.

Throughout his childhood, Shaheem was shuffled between the foster system and his mother's home, suffering abuse at both ends. *See* C.A. J.A. 753-54. His foster parents beat him with ironing cords and wooden slats. *Id.* 446. Living with his mother provided little solace from trauma. Time and again, he was forced to watch the man he believed to be his biological father severely abuse his mother. *Id.* 754. Her other partners abused Shaheem himself: He was molested repeatedly throughout his childhood by several of his mother's boyfriends and other members of the community. *Id.*

His mother's substance abuse cast a shadow over Shaheem's childhood. His mother spent as much as $100 per day on heroin, while her children went hungry. *See* C.A. J.A. 754-55. Out of necessity, Shaheem began working to support his family. At twelve, he started delivering newspapers to

supplement his mother's income. *Id.* 447. Despite repeatedly being robbed on his delivery routes, Shaheem persisted to help feed his siblings. *Id.* 447, 613.

Shaheem was pulled into drug dealing by older dealers by the age of 15. C.A. J.A. 447. Over the next five years, he fell further into the world of narcotics, influenced by those older dealers. *See id.* 145-47, 447-48.

2. Shaheem Johnson was arrested in 1997, around age 25. *See* C.A. J.A. 094-136, 448. A jury convicted him on several charges. Pet. App. 22a-25a. Among Mr. Johnson's convictions were one for voluntary manslaughter and a second for aiding and abetting a murder. *Id.*

Mr. Johnson received two life sentences—the minimum sentence under the then-mandatory U.S. Sentencing Guidelines—and an additional 790 months of imprisonment with no possibility of parole. *See* Pet. App. 22a-25a & nn.3-10.

Mr. Johnson's coconspirators received substantially lower sentences. Two pleaded guilty and provided substantial assistance to the Government. Pet. App. 42a. They ultimately received forty- and twenty-year sentences, respectively. *Id.* And a third—the one who actually committed the murder Mr. Johnson was convicted of aiding and abetting—received only a five-year sentence. *Id.* 23a, 43a.

3. Over his three decades of incarceration, Mr. Johnson has devoted his time to improving himself and helping others.

Mr. Johnson's rehabilitation began long before the passage of the First Step Act, when there was no

prospect of early release. *See* C.A. J.A. 448-49. His "first efforts" were geared toward preserving a relationship with his daughter, so he took "every parenting class" offered by the Bureau of Prisons and "wrote to [his] daughter even when she couldn't read." *Id.* 448. To this day, Mr. Johnson maintains a close relationship with his daughter and grandchildren, whom he calls every morning. *See id.* 654-56.

Mr. Johnson's commitment to improving himself for his daughter's sake did not end with the parenting classes. At this point, Mr. Johnson has completed nearly 1,000 hours of educational classes; received dozens of certificates for his work; completed paralegal training; and passed West Virginia's electrician license exam. Pet. App. 32a.

Mr. Johnson has equally devoted himself to serving others, acting as an instructor across several programs within the Bureau of Prisons. Pet. App. 32a. BOP staff have described his contributions to the Bounce Back Transition Unit Program as "instrumental to aiding other inmates in the Transition Unit." *Id.* Mr. Johnson has also contributed, first as a student and later as a teacher, to the Inside-Out Exchange Program, a joint program conducted with Fairmont State University designed to educate students about carceral life and develop solutions to reduce recidivism. *Id.* He remains involved with Inside-Out through his work with United Circle for Helping Our People Excel, a think tank dedicated to improving the quality of life for incarcerated populations. *Id.*; C.A. J.A. 401-03.

Letters from fellow inmates, BOP staff, and family members reflect Mr. Johnson's transformation and character. Other prisoners describe him as a "big

brother," "role model," and "leader," C.A. J.A. 548, whose "gift to help guide those [in] need" has helped those around him to grow and improve themselves in turn, *id.* 550. BOP staff have consistently relied upon Mr. Johnson as a model inmate who "can be counted on to lead his peers by example." *Id.* 454. His daughter, Rashida, has described him as the "greatest dad and gift that any daughter can ask for." *Id.* 553 (cleaned up).

B. Procedural background

1. More than two decades into his sentence, Mr. Johnson sought a sentence reduction under 18 U.S.C. § 3582(c)(1)(A)(i). Pet. App. 28a. To grant such a reduction, a district court must: (1) find that "extraordinary and compelling reasons warrant such a reduction," and (2) "consider the factors set forth in section 3553(a)"—that is, the factors that district courts consider when sentencing in the first instance. 18 U.S.C. § 3582(a), (c)(1).

2. The district court granted Mr. Johnson's motion.

a. First, the district court identified a number of considerations that supported a finding that "extraordinary and compelling reasons warrant[ed] a reduction." *See* Pet. App. 30a-56a. As most relevant here, the district court held that "[o]n balance, there are sentencing disparities that weigh in favor of granting relief." *Id.* 45a. Two of Mr. Johnson's co-defendants received reduced sentences of twenty and forty years pursuant to a cooperation agreement (one of them was released in 2015). *Id.* 42a. Another coconspirator—the one who actually committed the murder Mr. Johnson was convicted of aiding and

abetting—received a total sentence of 60 months. *Id.* 43a. "[W]ithout diminishing the extremely serious nature of Johnson's conduct," the district court found that the comparably serious nature of the other coconspirators' conduct meant the sentencing disparities were "unwarranted." *Id.* 45a-46a.

The district court also weighed a number of other considerations. First, it heavily weighted Mr. Johnson's rehabilitation. Pet. App. 31-33a. Acknowledging that "rehabilitation alone may not constitute *the* extraordinary and compelling reason for relief," the district court explained that rehabilitation may nonetheless "be considered among other factors." *Id.* 31a (citing 28 U.S.C. § 994(t)). It was undisputed that Mr. Johnson was a "model inmate" during his incarceration and that he had attained "dozens of certificates," completed "nearly 1,000 hours of education classes," and made "instrumental" contributions to BOP programs. *Id.* 32a-33a. And the district court recognized that Mr. Johnson's "motivations for rehabilitation are by all indications sincere," as he did all of that during a period where he had no hope of release. *Id.* 33a.

The district court also found that Mr. Johnson's relative youth (he was 20 at the time the offense conduct began) weighed in favor of compassionate release. *See* Pet. App. 33a. Citing this Court's opinion in *Jones v. Mississippi*, 141 S. Ct. 1307 (2021), as well as principles of developmental psychology, the district court determined that Mr. Johnson's age at time of offense should be viewed in light of the "horrific circumstance in which he was raised." *See* Pet. App. 33a-35a. Mr. Johnson's relative youth "in tandem with

the incredible abuse, neglect, and trauma" of his upbringing "weigh[ed] in favor of relief." *Id.* 35a.

Also significant to the district court: The fact that neither the judge nor the jury would have sentenced Mr. Johnson to life if it had not been mandatory. *See* Pet. App. 38a-47a; *see also id.* 56a n.39. The sentencing judge attested that if a life sentence hadn't been mandatory, he would not have imposed one: "I thought then and now that the Shaheem Johnson sentence was excessive." *Id.* 38a. The jury foreman also wrote a letter of support, saying that, if the jury had the chance to weigh in on sentencing, it "likely would have recommended a sentence of reduce[d] years less than a life sentence." *Id.* 40a. The jury foreman explained, "We understood that you were very young, had very little choice and guidance in how you lived your life, and [were] involved in the difficult to escape mechanisms of the drug trade." *Id.*

Finally, the district court considered what Mr. Johnson's sentence might be today. It found that the portion of his sentence for using a firearm was "four times higher than what Congress now deems adequate punishment" for the same conduct. Pet. App. 47a-48a. The Government did not argue that the district court was barred by law from considering that change. Pet. App. 47a-48a; *see* C.A. J.A. 588-90. Instead, it argued that an "individual, case-by-case assessment" was necessary to determine when to consider such changes. *Id.* The district court also took into account that, under today's Department of Justice charging policies, Mr. Johnson would have faced many fewer counts than he did in the 1990s. *Id.* 50a-53a.

The district court concluded “there are extraordinary and compelling reasons that warrant a sentence reduction.” Pet. App. 55a.

b. The district court then turned to the sentencing factors under 18 U.S.C. § 3553(a). It began with “the nature and circumstances of the offense and the history and characteristics of the defendant.” Pet. App. 56a (quoting 18 U.S.C. § 3553(a)(1)). It found that, “as Johnson himself acknowledges, his crimes ‘were heinous and warranted a substantial sentence of imprisonment.’” *Id.* 58a (quoting C.A. J.A. 433). But Mr. Johnson “credibly expressed genuine remorse for his actions” and had undergone “substantial rehabilitation.” *Id.* 59a. The district court found notable that if he is released, Mr. Johnson “plans to work for an electrical company and youth initiative, publish a book he is writing to deter others from engaging in criminal activity, and ask his longtime partner and mother of his daughter to marry him.” *Id.*

The district court next considered “the need for the sentence imposed to reflect” the purposes of punishment (retribution, deterrence, incapacitation, and rehabilitation). Pet. App. 61a (cleaned up) (quoting 18 U.S.C. § 3553(a)(2)). Mr. Johnson had already served “a quarter-century in prison,” which the district court deemed sufficient to satisfy the purposes outlined in the statute. *Id.*

Finally, the district court discussed “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” Pet. App. 63a (quoting 18 U.S.C. § 3553(a)(6)). Again, it highlighted the discrepancies between Mr. Johnson’s sentence and the sentences of his coconspirators. *Id.* 63a-64a.

"On balance," the district court concluded, "these factors counsel in favor of a substantial sentence of years less than life in prison." Pet. App. 64a. Given the district court's revised sentence and Mr. Johnson's good-time credits, he is currently slated to be released on July 19, 2028. *See id.*

3. The Fourth Circuit affirmed the district court's judgment. It held that the sentencing disparities between Mr. Johnson and his coconspirators, standing alone, would be sufficient to sustain the judgment of the district court. Pet. App. 8a-9a. The Fourth Circuit explained that "the only difference" between Mr. Johnson and his coconspirators "is the mere fact that Johnson elected to exercise his right to a jury trial"—a distinction that "did not justify such a vast disparity" between Mr. Johnson's life sentence and the five-, twenty-, and forty-year sentences of his equally culpable coconspirators. *Id.* 6a. The Fourth Circuit did not address the other considerations the district court relied on in its compassionate-release analysis. *Id.* 8a-9a.

Judge Niemeyer dissented. He would have held that only "developments that have occurred after the original sentence was imposed" can be considered in the compassionate release analysis. Pet. App. 12a. He argued the compassionate-release statute prohibits district courts from conducting a "reassessment of the facts leading to the defendant's conviction or the factors considered in imposing the original sentence." *Id.* 13a. As a result, Judge Niemeyer believed, the district court abused its discretion in considering the disparities between Mr. Johnson and his coconspirators. *Id.* 17a-18a. Like the majority, Judge Niemeyer did not address the other considerations

that the district court relied on in granting compassionate release.

4. The Government now petitions for certiorari. It does not seek plenary review. Rather, it requests that this case be held pending this Court's disposition of *Fernandez v. United States*, No. 24-556; *Carter v. United States*, No. 24-860; and *Rutherford v. United States*, No. 24-820 (all argued Nov. 12, 2025).

REASONS FOR DENYING THE WRIT

This Court should only hold this case if there is a potential for a GVR in light of *Fernandez v. United States*, No. 24-556; *Carter v. United States*, No. 24-860; and *Rutherford v. United States*, No. 24-820 (all argued Nov. 12, 2025).

A GVR, in turn, would only be warranted if three requirements were met. First, the pending decisions must create "a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration." *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam). Second, it must "appear[] that such a redetermination may determine the ultimate outcome of the litigation." *Id.* And even then, a GVR would only be "potentially appropriate." *Id.* The Government would also need to make a third showing—that the "equities of the case" counsel in favor of the GVR. *Id.* at 168.

The Government cannot satisfy *any* of these requirements, let alone all three. Indeed, the Government's one paragraph of argument doesn't attempt meaningfully to address how it could meet the GVR standard, whatever the outcome in the pending

cases. There is thus no basis for this Court to hold Mr. Johnson's case.

I. This Court should not hold this case because the pending cases will not undermine the Fourth Circuit's decision.

There is no cause to think that the Court's forthcoming decisions in *Fernandez*, *Carter*, or *Rutherford* will give rise to a "reasonable probability" that the Fourth Circuit would "reject" one of its "premise[s]." *See Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam). When this Court holds a petition pending its decision in another case, it is typically because the questions presented in the two cases are the same or substantially similar. *See, e.g.*, Pet. for Writ of Cert. at 12, *Orta v. United States*, No. 25-81 (filed July 18, 2025); Mem. for U.S., *Orta*, 2025 WL 2994080 (identical question to *Carter* and *Rutherford*).

This is not such a case. The sole basis for the Fourth Circuit's decision was the sentencing disparities between Mr. Johnson and other coconspirators. *See* Pet. App. 8a-9a. None of the questions presented in *Fernandez*, *Carter*, and *Rutherford* encompass coconspirator sentencing disparities, and the Government makes no real attempt to explain how the Court's forthcoming decisions in those cases might have any bearing on the Fourth Circuit's decision in this one.

1. The Government claims that *Fernandez* is the most relevant to this case: "*Fernandez*, in particular, involves [(1)] a sentence reduction for reasons that include a claim that could be raised as a collateral attack under 28 U.S.C. 2255 and [(2)] purported

disparities with the sentences of cooperating coconspirators.” Pet. 7.

The first clause has nothing to do with the Fourth Circuit’s analysis. Sentencing disparities between codefendants—again, the only consideration the Fourth Circuit addressed—are not “claim[s] that could be raised as a collateral attack under 28 U.S.C. 2255.” *See* Pet. 7.

And that second clause has nothing to do with *Fernandez*. It is true that, in *Fernandez*, the Second Circuit held that sentencing disparities between codefendants could not be considered and that the *Fernandez* petitioner initially phrased its question broadly enough to challenge that holding.[1] But this Court *limited* the question presented to exclude that issue and instead ask only whether the compassionate release inquiry can “include reasons that may also be alleged as grounds for vacatur of a sentence under 28 U.S.C. § 2255.” Order Granting Pet. for Certiorari, *Fernandez v. United States*, No. 24-556 (argued Nov. 12, 2025).

An order “limiting the grant of certiorari to certain questions” is, of course, “binding upon counsel, and argument ordinarily will not be heard on questions outside the scope of the order.” Stephen M. Shapiro et al., Supreme Court Practice § 5.10 (11th ed. 2019). Unsurprisingly, then, neither party in *Fernandez* briefed the question of codefendant sentencing

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[1] *See Fernandez* Pet. i (“Whether the Second Circuit erred in recognizing extra-textual limitations on what information a court may consider when determining whether there exist extraordinary and compelling reasons warranting a sentence reduction under 18 U.S.C. § 3582(c)(1)(A).”); *United States v. Fernandez*, 104 F.4th 420, 429 & n.4 (2d Cir. 2024).

disparities, and it did not come up during oral argument. *Fernandez* thus provides no occasion for this Court to issue a holding about sentencing disparities.

2. The Government says even less about how a decision in *Carter* and *Rutherford* could have any bearing on this case. Pet. 6-7. Both cases address whether changes to a sentencing statute that Congress expressly made nonretroactive can form the basis for a compassionate release decision. *See* Pet. Br. at i, *Rutherford v. United States*, No. 24-820 (argued Nov. 12, 2025); Pet. Br. at i, *Carter v. United States*, No. 24-860 (argued Nov. 12, 2025). Neither case raises any question about disparities among codefendants. Indeed, neither petitioner sought or received relief on that basis. *See United States v. Carter*, 711 F. Supp. 3d 428, 430-31 (E.D. Pa.), *aff'd*, 2024 WL 5339852 (3d Cir. 2024), *cert. granted*, 145 S. Ct. 2775 (2025); *United States v. Rutherford*, 2023 WL 3136125, at *3 (E.D. Pa. Apr. 27, 2023), *aff'd*, 120 F.4th 360 (3d. Cir. 2024), *cert. granted*, 145 S. Ct. 2776 (2025). There is no basis to believe that this Court's decision in those cases addressing nonretroactive changes in law will have anything to say about sentencing disparities among codefendants.[2]

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[2] While the district court in this case listed a nonretroactive change in law among its "extraordinary and compelling" considerations, *see* Pet. App. 46a-48a, the Government doesn't argue the district court's decision makes *Carter* and *Rutherford* apposite here. With good reason: The Fourth Circuit did not rely on that nonretroactive change in law. And in any event, the Government forfeited the argument it now makes in *Carter* and *Rutherford* (that nonretroactive changes in law are not "extraordinary and compelling") by failing to raise it in the district court. *See* Pet. App. 8a-9a; C.A. J.A. 588-90.

3. Nor is there any reason to think that the Court's decisions in *Carter*, *Rutherford*, or *Fernandez* will vindicate—or even address—the basis on which Judge Niemeyer dissented below. Judge Niemeyer drew a temporal line: He would limit "extraordinary and compelling reasons" to "developments that have occurred *after* the original sentence was imposed," thereby excluding sentencing disparities among codefendants. Pet App. 12a (emphasis added).

Judge Niemeyer's temporal line cannot resolve any of the questions presented in *Fernandez*, *Carter*, or *Rutherford*. Indeed, no one in those cases even argues for such a temporal line, and for good reason. Limiting "extraordinary and compelling reasons" to considerations that arise after sentencing doesn't answer the question of *which* post-sentencing considerations are allowed. It doesn't answer, for instance, whether newly discovered evidence or new case law—which could be the basis for a Section 2255 claim—are valid considerations for purposes of *Fernandez*'s question presented. And it certainly doesn't answer the question in *Carter* and *Rutherford*, either: whether nonretroactive changes in law—which, by definition, occur well after sentencing—are valid considerations.

4. What's left is the Government's general statement that *Fernandez*, *Carter*, and *Rutherford* "will address the extent to which the words 'extraordinary' and 'compelling' limit courts' authority to grant sentence reductions under Section 3582(c)(1)(A)(i)." Pet. 7. That general connection between the cases cannot be enough to meet the Government's burden here. If it were, a petitioner could receive a hold and GVR simply based on the fact

that a pending case deals with the same statute. That has never been this Court's rule.[3]

II. This Court should not hold this case because the ultimate outcome of the litigation will not change.

The Government cannot establish the second requirement for a GVR, either. *Fernandez*, *Carter*, and *Rutherford* will not change the "ultimate outcome of the litigation." *See Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam). Even if those three cases somehow placed codefendant sentencing disparities off limits in the compassionate-release analysis, that wouldn't change the district court's bottom line. The district court relied on far more than sentencing disparities in granting Mr. Johnson a reduction in sentence.

Consider just the first two sections of the district court's analysis. The first identifies Mr. Johnson's "extraordinary commitment to rehabilitation," despite no hope of release. Pet. App. 32a-33a. The second identifies Mr. Johnson's young age at offense in tandem and the "horrific circumstance[s]" of his upbringing. *Id.* 33a-35a. There can be no argument that *Fernandez*, *Carter*, or *Rutherford* will affect those considerations. And those two considerations standing alone would be sufficient to justify a reduction in sentence. Courts around the country have granted compassionate release solely based on youth at the

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[3] *See, e.g.*, BIO at 21-25, *Russian Fed. v. Hulley Ent. Ltd.*, 2026 WL 79989 (Jan. 12, 2026) (No. 25-549) (cert. denied); BIO at 33-39, *Avery Dennison Corp. v. Adasa, Inc.*, 143 S. Ct. 2561 (2023) (No. 22-822) (cert. denied); BIO at 13-14, *Truskey v. Vilsack*, 143 S. Ct. 2659 (2023) (No. 22-737) (cert. denied).

time of the offense combined with exceptional rehabilitation.[4]

Were those two considerations not enough, recall that the district court had letters from both the judge who sentenced Mr. Johnson and the jury foreman urging that Mr. Johnson should not receive a life sentence. *Supra* at 6-7.

Even absent consideration of the disparities between Mr. Johnson's sentence and that of his coconspirators, then, it seems unlikely that the "ultimate outcome" of this case will change. *See Lawrence*, 516 U.S. at 167.

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[4] *See, e.g.*, *United States v. LeBaron*, 2023 WL 7308116, at *5-8 (S.D. Tex. Nov. 6, 2023) (finding compelling circumstances where defendant—convicted of four murders at age 23—had engaged in "commendable efforts to rehabilitate herself while incarcerated"); *United States v. Ramsay*, 538 F. Supp. 3d 407, 424-426 (S.D.N.Y. 2021) (holding that defendant's "upbringing," "youth more generally," and rehabilitative efforts "call[ed] into grave doubt a life sentence" for murder in aid of racketeering); *United States v. Lara*, 658 F. Supp. 3d 22, 39 (D.R.I. 2023) (holding that age at time of carjacking leading to death—18 years old—and "commendable rehabilitation" provided extraordinary and compelling reasons for reduction of sentence); *United States v. King*, 2023 WL 7194866, at *4 (N.D. Cal. Nov. 1, 2023) (finding that "rehabilitative efforts and young age at the time of sentencing" for sex trafficking established an extraordinary and compelling circumstance); *United States v. Espino*, 2022 WL 4465096, at *4 (D. Kan. Sept. 26, 2022) (finding that "defendant's young age at the time of his offense, the length of the sentence he received, and overwhelming evidence of defendant's outstanding rehabilitation and reformation while in custody, in combination, constitute extraordinary and compelling reasons").

III. The equities of this case counsel against a hold.

Even if the Government could establish those first two prerequisites, a GVR would still only be "potentially appropriate." *See Lawrence v. Chater*, 516 U.S. 163, 167-68 (1996) (per curiam). "Whether a GVR order is ultimately appropriate depends further on the equities of the case." *Id.* Two equitable circumstances are particularly salient here.

First, "a GVR order is inappropriate" where "the delay and further cost entailed in a remand are not justified by the potential benefits of further consideration by the lower court." *Lawrence*, 516 U.S. at 168. This is just such a case. Mr. Johnson is currently slated for release in July 2028. A GVR would make it likely that he would remain incarcerated beyond his release date. The first time around, a full 23 months elapsed between the district court's decision and the Fourth Circuit's. *Compare United States v. Johnson*, 2023 WL 5049267 (E.D. Va. Aug. 8, 2023), *with United States v. Johnson*, 143 F.4th 212 (4th Cir. 2025) (decided July 8, 2025). That time could stretch even longer if the GVR winds up requiring new proceedings in the district court.

And as explained above, all that additional time and briefing is likely futile: the district court and Fourth Circuit have more than sufficient grounds to reach the same result again. The effect of a hold and GVR here would thus force Mr. Johnson to serve more time toward a sentence that at least four judges (the sentencing judge, the judge who granted him compassionate release, and two of the judges on the Fourth Circuit panel) agree is manifestly unjust.

Second, this Court considers whether a GVR would "further[] fairness by treating" the parties in

the case under consideration like other parties. *See Lawrence*, 516 U.S. at 175. A GVR would not do so in this case. Since the passage of the First Step Act, thousands of prisoners have been granted compassionate release. *See* U.S. Sent'g Comm'n, Compassionate Release Data Report FY 2023 4 tbl.1 (2024), https://perma.cc/XWC8-L3UR. Of these decisions, counsel identified only this case in which the Government has sought certiorari. And it's not clear why the Government has singled out Mr. Johnson: As explained above, his case doesn't have any particular connection to the pending cases, and the kinds of considerations that supported the compassionate-release decision in this case are the same kinds of considerations that courts around the country have relied on in granting relief to many other defendants. *See supra* at 16 & n.5.

After Mr. Johnson spent decades coming to terms with the fact that he would die in prison, two federal courts agreed he might yet embrace his daughter and his grandchildren as a free man. A GVR would only delay that outcome. The equities thus counsel against holding Mr. Johnson's case pending *Fernandez*, *Carter*, and *Rutherford*.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should not be held but rather denied.

Respectfully submitted,

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