

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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OCTOBER TERM 2024

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JAMES LEE WINN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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SUBMITTED: September 22, 2025

## **QUESTION PRESENTED**

Whether Special Condition #11 of the imposed conditions of supervised release, requiring Mr. Winn to abstain from alcohol and stay out of bars, violates 18 U.S.C. § 3583(c) and § 3583(d), is a greater deprivation of liberty than necessary, and is overbroad, where he has not used alcohol in over 17 years and neither his original conditions of release or his later modified conditions of release included that condition?

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James Lee Winn (“Mr. Winn”) petitions for a Writ of Certiorari to grant certiorari and either review his case or remand to the Court of Appeals to actually address the on-the-record facts before it applies the governing law.

Mr. Winn asks this Court to consider the Ninth Circuit’s holding, in which the panel, without citing any facts, ruled the district court, upon revoking his supervised release, had “broad discretion” to impose a condition of supervised release barring

Mr. Winn from alcohol and bars, even though Mr. Winn has not used alcohol in over 17 years, and even though neither Mr. Winn's original judgment, nor his modification of those conditions of release, barred him from alcohol and bars.

### JURISDICTION

The Court of Appeals issued its disposition denying Mr. Winn's request for appellate relief on June 26, 2025. Appendix A. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

### OPINION BELOW

The unpublished disposition of the United States Court of Appeals for the Ninth Circuit is reported at *United States v. Winn*, 2025 WL 1768802 (9th Cir. 2025). Appendix A.

### LEGAL PROVISIONS INVOLVED

This case involves 18 U.S.C. §§ 3553(a), and 3583(c), and 3583(d). Appendices B-D.

### STATEMENT OF THE CASE AND PRIOR PROCEEDINGS

On December 20, 2007, Mr. Winn was indicted on Count I, Receipt of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(2), and Count II, Possession of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).



On January 15, 2009, after pleading guilty, Mr. Winn was sentenced to two hundred months imprisonment, followed by a lifetime term of supervised release on Count I. There was no special condition of supervised release banning alcohol and bars.

Mr. Winn began serving his term of supervised release on April 1, 2022. On May 5, 2022, the court formally ordered the modification of Mr. Winn's conditions, and also received a report outlining alleged violations of his supervised release conditions. The court did not issue a petition to revoke Mr. Winn's supervised release. None of the violations alleged in May 2022 were related to alcohol or controlled substance use or abuse. The modified conditions of Mr. Winn's supervised release did not ban him from alcohol or bars.

On February 23, 2024, the Court received another report on offender regarding Mr. Winn. As with the May 2022 report, none of the alleged violations were related to alcohol or controlled substance use or abuse.

On August 21, 2024, a petition to revoke Mr. Winn's terms of supervised release was filed in the district court. Two (2) violations of the conditions of supervised release were alleged. At the final revocation hearing on August 27, 2024, Mr. Winn admitted to the alleged violations and the court revoked his term of supervised release and sentenced Mr. Winn to a period of incarceration of six (6)

months, recommending a federal medical facility, followed by a term of twenty (20) years of supervised release. None of the violations involved alcohol or drugs.

At the final revocation hearing, while imposing sentence, the district court ordered a condition barring Mr. Winn from drinking alcohol and entering bars. Special Condition #11 provides: “You must abstain from the consumption of alcohol, and you are prohibited from entering establishments where alcohol is the primary item of sale.” Mr. Winn objected to that condition. The court responded:

THE COURT: And you said he stays at home, so he doesn’t go out, so it is a supposed restriction of his liberty that is c’est la vie, so – well, your objection is noted.

Mr. Winn appealed the revocation judgment. The Ninth Circuit Court of Appeals affirmed on June 26, 2025. Appendix A.

This petition follows.

### FACTUAL BACKGROUND

After having been jailed since January 21, 2008, on January 15, 2009, Mr. Winn was sentenced to two hundred months imprisonment, followed by a lifetime term of supervised release, with 11 special conditions of release. Unlike his revocation sentence and the challenged special condition barring alcohol use and entering bars, Mr. Winn’s original sentence did not include a special condition addressing alcohol.

The Final Presentence Report issued on December 31, 2008. It does not mention alcohol, or any other substances, in the offense conduct portion of the report. PSR ¶¶ 4-12. The “Substance Abuse” portion of the report informs that Mr. Winn tried alcohol for the first time in his early teens, drinks alcohol “four or five times per year” and “has only one or two drinks”. PSR ¶ 54. Mr. Winn described himself to the PSR writer as “not a drinker.” Similarly, Mr. Winn reported using marijuana three times between the ages of 18 and 19, and no other drug use. PSR ¶ 55. His aunt “does not believe the defendant has any drug or alcohol problems.” PSR ¶ 56.

A court-ordered psychological evaluation concluded “Mr. Winn has no significant substance abuse history.”

At the time of Mr. Winn’s original conviction, the standard conditions of supervised release included this condition: “the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.” This “standard” alcohol condition was removed from the standard conditions promulgated by the United States Sentencing Commission with the passage of Amendment 803. The Commission explained:

Challenges [to the standard conditions] have been made on the basis that certain conditions are vaguely worded, pose constitutional concerns, or have been categorized as “standard” conditions in a manner that has led to their improper imposition upon particular offenders.

Amendment 803, Reason for Amendment (underline added).

Mr. Winn was released from prison and began serving his term of supervised release on April 1, 2022.

On May 5, 2022, a request to modify Mr. Winn’s conditions of supervised release was filed. The purpose of the modification was to align Mr. Winn’s conditions with the conditions promulgated through Amendment 803 and to conform his special conditions to Ninth Circuit law. None of the modified conditions banned alcohol or bars.

The request to modify conditions also included alleged supervised release violations. Mr. Winn was alleged to have failed to report to his United States Probation Officer upon release from prison, had unapproved contact with a convicted felon, possessed adult pornography, possessed unapproved electronic devices, and failed to register as a sex offender. Alcohol use or substance abuse were not alleged in the report.

On February 23, 2024, a report was filed alleging Mr. Winn’s violation of his conditions of supervised release. The report alleged Mr. Winn had failed a

polygraphy examination and had admitted to viewing adult pornography using a device owned by his roommate. Alcohol use or substance abuse were not alleged in the report.

On August 22, 2024, a petition alleging violations of Mr. Winn's conditions of supervised release was filed. After Mr. Winn failed a polygraph examination, the United States Probation Office conducted a search of Mr. Winn's residence, resulting in the first alleged violation – possession of an internet-capable cellphone found in Mr. Winn's residence. The second alleged violation was Mr. Winn's termination from sex offender treatment. Mr. Winn was terminated from sex offender treatment because he possessed the cellphone, and when confronted by the treatment provider, Mr. Winn threatened to kill law enforcement officers, or force law enforcement officers to kill him. Alcohol use or substance abuse were not alleged in the petition.

On August 27, 2024, the district court convened a final revocation hearing on the petition. Mr. Winn admitted the alleged violations.

The court revoked Mr. Winn's supervised release. Mr. Winn waived the reading of the standard conditions of supervised release. The court pronounced sentence, detailing fifteen (15) special conditions of supervised release, including Special Condition #11:

THE COURT: You must abstain from the consumption of alcohol, and you are prohibited from entering establishments where alcohol is the primary item of sale.

Mr. Winn objected to Special Condition #11, the supervised release condition prohibiting the consumption of alcohol and entering bars.

THE COURT: Mr. Rhodes, is there any legal reason why that sentence should not be the judgment of the Court?

MR. RHODES: Your Honor, we object to the alcohol ban. From my review of the record, alcohol is just a nonissue, so I think it is a greater deprivation of liberty than necessary.

THE COURT: He started when he was 12 or 13 years old, and then he's used marijuana in his life and it is a reduced condition: Just don't go into bars.

[\*\*\*]

THE COURT: All right. So you object to the condition that says, Stay out of bars?

MR. RHODES: I think there was the alcohol condition, Yes, Your Honor.

THE COURT: Well, there's also an alcohol condition in the standard conditions, right?

MR. RHODES: Yes, Your Honor.

THE COURT: Just stay out of bars.

And you said he stays at home, so he doesn't go out, so it is a supposed restriction of his liberty that is c'est la vie, so – well, your objection is noted.

## Appeal

Mr. Winn appealed. The Ninth Circuit Court of Appeals affirmed the district court's decision, holding the district court had "'broad discretion' to impose special conditions of supervised release[.]" Appendix A. Despite a record dating back over 17 years, the court did not cite a single fact to support its holding and instead, it reasoned: "Given Winn's history and characteristics, and the need to protect the public, we cannot conclude the district court abused that broad discretion here." *Id.*

Mr. Winn requests that this Court grant certiorari to consider his issue, or grant, vacate, and remand.

### REASONS TO GRANT THE PETITION

**A. The law requires individualized sentencing, and especially where a party objects, the district court must sufficiently explain the sentence to permit meaningful review.**

Following the "*Booker* Revolution,"<sup>1</sup> in another seminal sentencing process case, the Court detailed the importance of the district court's explanation of sentence. "Confidence in a judge's use of reason underlies the public's trust in the judicial institution." *Rita v. United States*, 551 U.S. 338, 356 (2007).

A sentencing court is required to "state in open court the reasons for its imposition of the particular sentence." 18 U.S.C. § 3553(c). That requirement

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<sup>1</sup> 543 U.S. 220 (2005).

“allow[s] for meaningful appellate review” and “promote[s] the perception of fair sentencing.” *Gall v. United States*, 552 U.S. 38, 50 (2007). Meaningful review requires something to review. The district court, not the appellate court, “must make an individualized assessment based on the facts presented” to the district court. *Id.* at 50.

The sentencing court’s particularized explanation of sentence serves fundamental purposes. It promotes due process by ensuring that the judge “consider[s] every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.” *Gall*, 552 U.S. at 52 (quoting *Koon v. United States*, 518 U.S. 81, 113 (1996)).

Mr. Winn objected to the subject condition before the district court. “[W]hen a party raises a specific, nonfrivolous argument tethered to a relevant § 3553(a) factor in support of a requested sentence, then the judge should normally explain he accepts or rejects the party’s position.” *United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc) (citing *Rita*, 551 U.S. at 356-57). The district court responded to Mr. Winn’s objection.

THE COURT: Just stay out of bars.



And you said he stays at home, so he doesn't go out, so it is a supposed restriction of his liberty that is c'est la vie, so – well, your objection is noted.

There is no evidentiary basis for the imposition of the challenged condition. It violates § 3583's incorporation of § 3553(a), and it violates § 3583(d). Alcohol is not an obstacle to Mr. Winn's rehabilitation and barring Mr. Winn from it is not necessary to protect the public; he does not need to be deterred from alcohol; barring him from it is a greater deprivation of liberty than necessary.

No facts support the condition, thus the court of appeals cited none and instead amorphously ruled:

A district court has “broad discretion” to impose special conditions of supervised release, after “considering the pertinent statutory sentencing factors, including the nature of the offense and the defendant's background.” *United States v. Knight*, 122 F.4th 845, 848 (9th Cir. 2024). Given Winn's history and characteristics, and the need to protect the public, we cannot conclude the district court abused that broad discretion here. *See* 18 U.S.C. § 3583(d)(1)-(2).

Appendix A.

**B. Statutory overview of conditions of supervised release.**

A district court's discretion to impose conditions of supervised release is constrained by 18 U.S.C. §§ 3583(c) and (d). *See also* U.S.S.G. § 5D1.3(b) (incorporating standards from § 3583(c) and (d)).

To impose supervised release conditions, pursuant to 18 U.S.C. § 3583(c), the district court must first consider the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7). 18 U.S.C. § 3583(c).

Section 3553(a) is the primary sentencing statute. It requires these considerations for imposing a condition of supervised release:

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

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

(2) the need for the sentence imposed—

[...]

(B) to afford adequate deterrence to criminal conduct;

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

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

[...]

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

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

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

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

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

(5) any pertinent policy statement—

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

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

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

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

18 U.S.C. §§ 3553 (a)(1), (a)(2)(B)-(D), (a)(4)-(7).

After taking these factors into account, the supervised release condition is required to:

(1) [be] reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

(2) involve[] no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

(3) [be] consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. § 994(a).

18 U.S.C. § 3583(d)(1-3).

The government bears the burden of demonstrating that the statutory standards have been met. *See, e.g., United States v. Weber*, 451 F.3d 552, 558-59 (9th Cir. 2006).

**C. Because alcohol was not an issue in the underlying prosecution, because Mr. Winn has not drank alcohol in over 17 years, because alcohol has never been an issue during his supervision, and because alcohol was not an issue during the revocation proceedings, the condition violates the controlling statutes, is overbroad, and is a greater deprivation of liberty than necessary.**

1. No facts support the condition.

Alcohol is a non-issue for Mr. Winn. He rarely, if ever, drinks. The facts of this case do not support the imposed condition. He last drank alcohol prior to his arrest in January 2008, at least over seventeen (17) and likely over eighteen (18), and maybe nineteen (19), years ago.

2. Mr. Winn has not consumed alcohol in at least seventeen, and maybe nineteen, years.

Mr. Winn was arrested on January 21, 2008. PSR cover page. Since then, he has been in continuous custody until April of 2022, and then on supervised release until his revocation arrest in August, 2024.

Prior to his arrest in 2008, Mr. Winn reported drinking alcohol irregularly. PSR ¶ 54. He was then in custody for over fourteen (14) years. No alcohol use was reported during his supervised release.

During his prosecution, the district court ordered a Bureau of Prisons psychological evaluation. The report summarizes: “Mr. Winn has no significant

substance abuse history.” It specified he “last drank at least 1 ½ years ago,” which means he last drank sometime before November, 2006. It details:

Mr. Winn has no significant substance abuse history. He first tried alcohol in the fifth grade, and drank perhaps twice a month in junior high school. He last drank at least 1 ½ years ago, noting that he never drank heavily. The defendant’s general pattern of drinking is to have one or two drinks once or twice a month when with friends at a karaoke bar. He prefers mixed drinks. He denied ever experiencing any legal, relationship, or physical problems as a result of his drinking. Similarly, Mr. Winn reported he has only used marijuana three times from ages 17 to 20. He did not like it, as he is a borderline asthmatic. He denied ever abusing any prescription drugs and has never engaged in substance abuse treatment.

*Id.* The forensic psychologist endorsed Mr. Winn’s veracity:

Mr. Winn appeared to be a reliable historian during the interviewing process. He provided extensive information about personal and family history, the instant offenses, emotional problems, and past substance use. The defendant’s credibility seemed sound.

*Id.*

After Mr. Winn’s arrest and detention in January of 2008, he was in federal prison from 2009 until April of 2022, and could not consume alcohol. Since he began his term of supervised release, there has been no reported use of alcohol. Mr. Winn has not consumed alcohol in at least seventeen years and more likely in eighteen, or maybe even nineteen, years. *Id.*

3. Mr. Winn has no history of alcohol abuse or alcohol-related problems.

The BOP forensic report informs “Mr. Winn has no significant substance abuse history.”

None of Mr. Winn’s criminal history involves alcohol. PSR ¶¶ 33-35.

Mr. Winn described himself as “not a drinker.” PSR ¶ 54. He used marijuana around three times in his late teens and has not used any other illegal drugs. PSR ¶ 55. His aunt “does not believe [Mr. Winn] has any drug or alcohol problems.” PSR ¶ 56.

4. Mr. Winn’s underlying offense conduct did not involve alcohol.

Mr. Winn was convicted on January 15, 2009. The Presentence Report does not mention alcohol, or any other substances, in the offense conduct portion of the report. PSR ¶¶ 4-12. The district court did not impose any special conditions barring alcohol or bars. *Id.*

5. Mr. Winn’s original sentence did not include a special condition barring alcohol; when the district court modified his conditions of release in 2022, the district court did not include a special condition prohibiting alcohol; only Mr. Winn’s revocation judgment contains that condition; Mr. Winn is subject to, and does not challenge, drug and alcohol testing.

Mr. Winn’s original sentence did not bar alcohol. Mr. Winn began serving his supervised release term on April 1, 2022. On April 8, 2022, Mr. Winn agreed with his probation officer to the modification of his conditions to bring them into

compliance with existing Ninth Circuit law. Among other legal changes, the modifications reflected the Sentencing Commission's passage of Amendment 803.

Amendment 803 was promulgated by the Sentencing Commission to address issues raised by a Sentencing Commission multi-year review. Specifically, the purpose of the amendment was to re-draft standard conditions that were "vaguely worded, pose[d] constitutional concerns" or were "improper[ly] impos[ed] upon particular offenders." Amendment 803, Reason for Amendment.

As a result of Amendment 803 and the district court's application of it to Mr. Winn, Mr. Winn's modified conditions no longer included a standard condition on consuming excessive alcohol, but did include an enhanced special condition regarding controlled substance testing:

You must participate in substance abuse testing to include not more than 365 urinalysis tests, not more than 365 breathalyzer tests, and not more than 36 sweat patch applications annually during the period of supervision.

You must pay part or all of the costs of testing as directed by the probation officer.

Mr. Winn agreed to that condition. Like his original sentence, no special condition barred Mr. Winn from consuming alcohol or entering bars.

At the revocation hearing, the court imposed the following alcohol and drug testing condition:



You must participate in substance abuse testing to include not more than 80 urinalysis tests, not more than 180 breathalyzer tests, and not more than 18 sweat patch applications annually during the period of supervision. You must pay part or all of the costs of testing as directed by the probation officer.

Mr. Winn did not, and does not, object to that condition. He does object to the first-time-ever special condition barring alcohol and entering bars.

6. Mr. Winn's noncompliance with his conditions of release did not involve alcohol.

On May 5, 2022, the court formally ordered the modification of Mr. Winn's conditions, and also received a report outlining alleged violations of his supervised release conditions. The court did not issue a petition to revoke Mr. Winn's supervised release. None of the violations alleged in May 2022 were related to alcohol or controlled substance use or abuse.

On February 23, 2024, the Court received another report on offender regarding Mr. Winn. As with the May 2022 report, none of the alleged violations were related to alcohol or controlled substance use or abuse.

7. Mr. Winn's revocation conduct did not involve alcohol.

On August 22, 2024, the instant revocation petition was filed. It alleged two violations of his conditions of supervised release. None of the alleged violations were related to alcohol or controlled substance use or abuse.

Mr. Winn admitted the alleged violations. There was no testimony at the hearing. Throughout the revocation hearing, there was no mention or allegation of alcohol use or controlled substance use.

None of the court's factual findings regarding the violations involved alcohol.

The court's explanation of sentence did not mention alcohol.

Alcohol has never been an issue on supervision. It was not mentioned in the revocation petition. It was not mentioned by the probation officer. It was not mentioned by the prosecutor. And other than the challenged condition, it was not mentioned by the judge.

That void makes sense. Mr. Winn has not used alcohol closing in on two decades.

8. Neither the district court or court of appeals cited facts justifying the conditions.

The best the district court could do to justify the first-time-ever-imposed alcohol and bar prohibition was to note that Mr. Winn drank alcohol "when he was 12 or 13 years old, and then he's used marijuana in his life".

Mr. Winn is 56 years old. His teenage alcohol use dates back to the 1980s, over 35 years ago. His marijuana use dates to 1987-88, when he was 18 and 19 years old.

The district court justified the restriction on liberty as "c'est la vie".

Knowing these facts, the best the court of appeals could to do is invoke the district court's "broad discretion" to impose conditions of release to conclude that "[g]iven Winn's history and characteristics, and the need to protect the public, we cannot conclude the district court abused that discretion here." Appendix A at 2 (citing 18 U.S.C. § 3583(d)(1-2)).

What exactly are those "history and characteristics" that justify banning alcohol and bars to protect the public, when alcohol is a non-issue for Mr. Winn?

9. The condition violates § 3553(a), § 3583(c), and § 3583(d).

Special conditions of supervised release must reasonably relate "to the factors set forth in 3553(a)(1), (a)(2)(B), (a)(2)(C) and (a)(2)(D)." 18 U.S.C. § 3583(d)(1). None of the § 3553(a) considerations support the alcohol condition. More fundamentally, § 3553(a) requires the court to impose a sentence sufficient, but not greater than necessary, to comply with the considerations in § 3553(a)(2).<sup>2</sup> The alcohol special condition is greater than necessary.

Turning to each of the § 3583(c) and § 3583(d) mandates regarding the § 3553(a) sentencing factors to consider in imposing the conditions of release, the "nature and circumstances of the offense" did not involve alcohol, nor was alcohol

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<sup>2</sup> 18 U.S.C. § 3553(a) provides: "The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection."

ever an issue during Mr. Winn's supervision, and his revocation violations did not involve alcohol. 18 U.S.C. § 3553(a)(1).

Mr. Winn has not drank alcohol in over 17 years. PSR ¶ 54. He has massive health problems, including a cancer diagnosis and treatment, hypertension, high cholesterol, gastrointestinal issues, blood clotting issues, and requiring supplemental oxygen. At the time of the original sentencing, he weighed 325 pounds. PSR ¶ 42. He weighs more now and is effectively home bound. Along with the rest of the record, those undisputed facts are the "history and characteristics of the defendant." 18 U.S.C. § 3553(a)(1).

Alcohol is a non-issue for Mr. Winn. He does not drink alcohol. He has not drank alcohol since more than a year before his original sentencing in January, 2009. PSR ¶ 54. It is not part of his life. An alcohol ban is completely unnecessary and irrelevant "to afford adequate deterrence to criminal conduct." 18 U.S.C. § 3553(a)(2)(B).

For those same reasons, and because his offense did not involve alcohol, because he never drank alcohol during supervision, and because his violations did not involve alcohol, the alcohol ban does not "protect the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2)(C).

Because Mr. Winn has not drank alcohol since at least 2007 or at the latest January 2008, the condition does not “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.” 18 U.S.C. § 3553(a)(2)(D).

The alcohol condition of release is patently “greater than necessary” to comply with §§ 3553(a)(2)(B), (a)(2)(C), and/or (a)(2)(D). As such, it violates § 3553(a)’s overarching parsimony provision to impose a sentence sufficient but not greater than necessary.

Under the next § 3553(a) considerations, § 3553(a)(4) and § 3553(a)(5) both reference the Sentencing Commission, and its attendant Guidelines. Section 5D1.3 of the Guidelines addresses “Conditions of Supervised Release”.

The “Mandatory Conditions” do not explicitly address alcohol. U.S.S.G. § 5D1.3(a). The “Standard Conditions” do not expressly address alcohol. U.S.S.G. § 5D1.3(c).

Regarding “Discretionary Conditions”, U.S.S.G. § 5D1.3(b) lists § 3553(a) considerations and then the no-greater-liberty-deprivation-than-necessary statutory requirements in §§ 3583(d)(1) and (d)(2).

Finally, the guideline specifies “Special Conditions”, including for substance abuse:

If the court has reason to believe that the defendant is an abuser of narcotics, other controlled substances or alcohol — (A) a condition requiring the defendant to participate in a program approved by the United States Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs or alcohol; and (B) a condition specifying that the defendant shall not use or possess alcohol.

U.S.S.G. § 5D1.3(d)(4).

Of course, the critical fact here is that there is no “reason to believe that the defendant is an abuser of . . . alcohol”, *id.*, since Mr. Winn does not even drink alcohol and has not drunk in at least seventeen, and maybe as many as nineteen, years.

The final § 3553(a) consideration is subsection (a)(7) – “the need to provide restitution to any victims of the offense.” Restitution was not ordered here.

In sum, the alcohol condition has zero support in “the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).” 18 U.S.C. § 3583(c).

And the alcohol condition of supervised release does not “reasonably relate[] to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D).” 18 U.S.C. § 3583(d)(1).

Special Condition # 11 violates all of the governing statutes.

## CONCLUSION

Mr. Winn respectfully requests this Court grant his petition for certiorari or grant certiorari, vacate the court of appeals judgment, and remand for further proceedings to require the lower courts to actually address the undisputed facts and apply the governing law.

RESPECTFULLY SUBMITTED this 22nd day of September, 2025.

JAMES LEE WINN

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