

No. 25-6553

IN THE SUPREME COURT OF THE UNITED STATES

SALVADOR HERNANDEZ, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 10-12¹) that the “extraordinary and compelling reasons” necessary to permit reducing a final sentence under 18 U.S.C. 3582(c)(1)(A)(i) can include a contention that the sentencing court miscalculated his advisory guidelines range in light of an intervening decision of this Court. The proper scope of Section 3582(c)(1)(A)(i) is currently before the Court in Fernandez v. United States, 145 S. Ct. 2731 (2025) (No. 24-556) (argued Nov. 12, 2025), Rutherford v. United States, 145 S. Ct.

¹ The petition for a writ of certiorari is not consecutively paginated. This memorandum refers to the pages as if they were consecutively paginated, starting with the discussion of the opinions below as page 1.

2776 (2025) (No. 24-820) (argued Nov. 12, 2025), and Carter v. United States, 145 S. Ct. 2775 (2025) (No. 24-860) (argued Nov. 12, 2025). The Court in those cases 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).

Nevertheless, the petition for a writ of certiorari in this case should not be held pending the decisions in Fernandez, Rutherford, or Carter. Under Section 3582(c)(1)(A)(i), any sentence reduction must be supported not only by “extraordinary and compelling reasons,” but also by “the factors set forth in section 3553(a) to the extent that they are applicable.” 18 U.S.C. 3582(c)(1)(A)(i). After the district court denied the sentence-reduction motion that is the subject of his petition for a writ of certiorari, petitioner filed a renewed motion in the district court under Section 3582(c)(1)(A)(i). See D. Ct. Doc. 1194 (Mar. 5, 2024); D. Ct. Doc. 1241 (Sept. 26, 2024); D. Ct. Doc. 1309 (Sept. 29, 2025). In denying that renewed motion, the district court determined that “[e]ven if [petitioner] were able to provide evidence establishing extraordinary and compelling reasons for releasing him, the § 3553(a) factors counsel against doing so.” D. Ct. Doc. 1318, at 5 (Dec. 16, 2025).

The district court observed that petitioner was “a member of the Mexican Mafia” who committed his racketeering and drug-trafficking conspiracy offenses while “serving a sentence in state

custody for attempted murder”; has a substantial criminal history; and “has ‘sustained three infractions (mail abuse, possession of an unauthorized item, and giving or accepting money without authorization) while serving his sentence.’” D. Ct. Doc. 1318, at 5 (citation omitted). And the court accordingly determined that a reduced sentence would “not ‘reflect the seriousness of the offense” or “‘afford adequate deterrence,’” and that petitioner’s “criminal history, the seriousness of the instant offenses, and [his] infractions during custody weigh against” a sentence reduction. Id. at 5-6 (quoting 18 U.S.C. 3553(a) (1) and (2)).

Because -- as the district court has already made clear -- the Section 3553(a) factors do not support relief, petitioner is not entitled to a sentence reduction, regardless of this Court’s disposition of Fernandez, Rutherford, and Carter. The petition for a writ of certiorari should therefore be denied.²

Respectfully submitted.

D. JOHN SAUER
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² The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.