No. 25-6786

IN THE

SUPREME COURT OF THE UNITED STATES

CORNELL CLISBY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI

FROM THE SIXTH CIRCUIT COURT OF APPEALS

Mr. Cornell Clisby #02054-061

FCI-Memphis/ P.O. Box 34550

Memphis, TN. 38184

QUESTION(S) PRESENTED

QUESTON NUMBER ONE:

Whether the Sixth Circuit and the district court abused its discretion by failing to hold that extraordinary and compelling reasons existed to qualify him for a reduced federal sentence, thus, the Honorable U.S. Supreme Court should VACATE and REMAND for reconsideration in the case herein.

QUESTION NUMBER TWO:

Whether the Sixth Circuit and the district court abused its discretion by failing to consider all factors in conjunction with his post-sentencing rehabilitation efforts to constitute "extraordinary and compelling reasons" to render him eligible for a reduced federal sentence, thus, the Honorable U.S. Supreme Court should VACATE and REMAND for reconsideration in the case at bar.

LIST OF PARTIES

[x] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[x] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A, to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[x] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[x] is unpublished.

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix ____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

JURISDICTION

[x] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was November 03, 2025.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date:

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) in Application No. ___ A_____.

The jurisdiction of the Court is invoked under 28 U.S.C. 1254 (1).

[ ] For cases from **state courts:**

The date in which the highest state court decided my case was _____.

A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on

_____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PAGE NUMBER

STATEMENT OF THE CASE

In mid-December of 2024, Mr. Clisby filed his pro se Emergency Motion for Reduction in Sentence ("RIS") (R. 257), and after full briefing commenced Mr. Clisby was denied by the district court within an eleven-page Opinion. On December 30, 2024, the district court denied his Emergency Motion for Reduction in Sentence (R. 286). A timely Notice of Appeal was filed on February 12, 2025, and after full briefing commenced on November 03, 2025, the Sixth Circuit Court of Appeals affirmed the district court's decision within a five-page Opinion (R. 12-1).

Petitioner Clisby asserts that he now petitions this Honorable U.S. Supreme Court to **GRANT** his Pro Se Petition for a Writ of Certiorari, thus, issue a GVR Decision or any other relief deemed warranted in the case at bar.

REASONS FOR GRANTING THE PETITION

Petitioner Clisby acknowledges that a review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted by this court only for compelling reasons, see Supreme Court Rule 10. Mr. Clisby filed his Emergency Motion for Reduction in Sentence pursuant to 18 U.S.C. 3582 (c) (1) (B) (i).

In the instant case Petitioner Clisby respectfully requests that

this Court **GRANT** his pro se Petition for a Writ of Certiorari as to Questions Number One and Two as relevant to question # 1, Cornell Clisby argues that the district court abused its discretion by failing to hold that extraordinary and compelling reasons existed to qualify him for a reduced federal sentence and the Sixth Circuit's affirmance of the district court's decision. Regarding question 2, Cornell Clisby argues that the district court failed to consider all factors in conjunction with his post-rehabilitation efforts to constitute "extraordinary and compelling reasons" to qualify him for a reduced federal sentence and the Sixth Circuit's affirmance of the district court's decision in which should compel this Honorable U.S. Supreme Court to grant a GVR in the case herein.

QUESTION NUMBER ONE:

Whether the Sixth Circuit and the district court abused its discretion by failing to hold those extraordinary and compelling reasons existed to qualify him for a reduced federal sentence, thus, the Honorable U.S. Supreme Court should VACATE and REMAND for reconsideration in the case herein.

Discussion

In the instant case, Petitioner Clisby contends that the district court denied his motion for reduction in sentence (R. 286), and the district court held in relevant part as follows:

ORDER

No Extraordinary and Compelling Reasons Support Release.

For purposes of ruling on the instant motion, the Court will assume (without deciding) that the policy statement in Sec. 1B1.13 (b) (6) is valid. Still, Defendant is not eligible for relief.

Defendant takes issue with his designation as a "Chapter Four" career offender, claiming—because he was convicted of conspiracy to possess heroin with intent to distribute—he "was not convicted of a federal controlled substance offense" as defined in the Guidelines. (See Doc. 257 PAGEID 1798-1801; Doc. 262 PAGEID 1885-86). But as the government points out, "the Sentencing Commission has now explicitly included conspiracy offenses, like other inchoate crimes, under a 'crime of violence' or 'controlled substance offense' for Career Offender designation, and the Sixth Circuit adheres to this. (Doc. 277 PAGEID 1951). "As such, there would be no change in the calculation of the defendant's guideline range if he were sentenced today because his Conspiracy conviction under 21 U.S.C. 846 is clearly a controlled substance offense." (Id. PAGEID 1951-52). See United States v. Fowler, No. 7:07-cr-00014-GFVT-CJS-3, 2024 WL 4545959, at * 3 (E.D. Ky. Oct. 22, 2024); United States v. Nelson, Nos. 1:08-cr-068, 1:08-cr-069, 2024 WL 2050273, at *3-4 (S.D. Ohio May 8, 2024) (Dlott, J.). Thus, Defendant has not established an

extraordinary and compelling reason for a reduction in sentence pursuant to Sentencing Guidelines Sec. 1B1.13 (b) (6).
See Appendix B.

However, it also appears that Amendment 814, in which governs Compassionate Release and Motion for Reduction in Sentence motions as it relates to Amendment 814, Section 1B1.13 (b) (6) and (c), specifically bars a district court from relying upon **an amendment to the Guidelines Manual that has been made retroactive,** thus, as the result of Mr. Clisby being sentenced back in 2014, applying Amendment 822 to his case violates his due process of law rights and the ex post facto clause of the first amendment. See United States v. Hogue, No. 22-30043, Doc. # 99-1 (9th Cir. Sept. 14, 2023) (The Ninth Circuit held that in the wake of the U.S. Supreme Court's Ruling in **Taylor** (2022), that attempted bank robbery no longer qualifies as a valid predicate offense as a "crime of violence" under Section 4B1.2 (a). The Ninth Circuit held that: "The error affects Hogue's "substantial rights" and "seriously affects the fairness, integrity, or public reputation of [the] judicial proceedings," id. at 652, because the career offender enhancement increased Hogue's sentencing exposure. Although the revised Sentencing Guidelines, which take effect November 1, 2023, will incorporate Application Note 1 into Section 4B1.2's text, they will not apply to Hogue because "the Ex Post Facto Clause

prohibits retroactive application of amended Guidelines that increase a defendant's sentencing range." Hughes v. United States, 138 S. Ct. 1765, 1775 (2018). We therefore remand for resentencing. REVERSED and REMANDED."); and Section 1B1.13 (c) Limitation on Changes in Law-Except as provided in subsection (b) (6), a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) **shall** not be considered for purposes of determining whether an extraordinary and compelling reason exists under this policy statement. However, if a defendant otherwise establishes that extraordinary and compelling reasons warrant a sentence reduction under this policy statement, a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) may be considered for purposes of determining the extent of any such reduction (emphasis added).

It is clear from the Ninth Circuit's Ruling and the U.S. Sentencing Commission's Section 1B1.13 (c), that the district court committed an error of law by relying upon the non-retroactive Amendment 822, and the Sixth Circuit should VACATE and REMAND for reconsideration with specific instructions to not consider Amendment 822, when deciding whether "extraordinary and compelling reasons" exists to qualify Mr. Clisby for a reduce federal sentence in the matter herein.

Sentencing Commission's "Report to Congress: Career Offender

Sentencing Enhancements" (August 2016). Defendant points to one of the conclusions made by the Sentencing Commission in its August 2016 Report to Congress as a basis for reducing his sentence, namely: "Drug trafficking only career offenders are not meaningfully different from other federal drug trafficking offenders and should not categorically be subject to the significant increases in penalties required by the career offender directive." https://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/criminal-history/201607 RtC-Career-Offenders.pdf (last visited Dec. 26, 2024). The Court is unpersuaded, because, despite this advice, Congress failed to amend 28 U.S.C. 994 (h), which sets forth the statutory requirements and methodology for Career Offender designation. Worth noting, the Sentencing Commission has broad (but not unbound) discretion, and "it must bow to the specific directives of Congress." See United States v. LaBonte, 520 U.S. 751, 753, 757 (1997).

See Appendix B.

Consideration of the 2016 U.S. Sentencing Commission Career Offender Report in which at least one federal court in the Sixth District have accepted and granted a significant "downward variance" from the "advisory" Guideline Range. See United States v. Rodney Martin, Case No. 1:17-cr-00060-PLM, see Sent. Memo., Doc. # 73, and

Sent. Trans., at Doc. # 84 (W.D. Mich.) (federal judge Paul Maloney accepted this "downward variance" claim and GRANTED a downward variance from the "advisory" 262-327 months to 108 months of imprisonment as to Count One in light of the 2016 Career Offender Report). The district court appeared to believe that could not consider the Sentencing Commission's "Report to Congress: Career Offender Sentencing Enhancements" (August 2016). The district court stated that: "The Court is unpersuaded, because, despite this advice, Congress failed to amend 28 U.S.C. 994 (h), which sets forth the statutory requirements and methodology for Career Offender designation. Worth noting, the Sentencing Commission has broad (but not unbound) discretion, and "it must bow to the specific directives of Congress." See United States v. LaBonte, 520 U.S. 751, 757 (1997). The sister Circuit the Seventh Circuit Court of Appeals have certainly authorized a "downward variance" on this basis. See United States v. Henshaw, 880 F.3d 392, 397 (7th Cir. 2018) (The district court certainly had discretion to express a policy disagreement with the career-offender guidelines as applied to non-violent offenders and to vary its sentence from the recommended range on that basis). The Sixth Circuit has held that "a district court's discretion to reject categorically or vary from the Guidelines on substantive policy grounds is not limited to the crack-cocaine context. See United States v. Herrera-Zuniga, 571 F.3d 568, 584

(6th Cir. 2009). Rather, this discretion "applies to all aspects of the Guidelines." See United States v. Cole, 343 Fed. Appx. 109, 115 (6th Cir. 2009). In 2016, the Commission reported to Congress that those like Mr. Clisby are classified as career offenders based solely on drug offenses ("drug trafficking only" offenders) do not reoffend at a rate greater than those sentenced under the ordinary drug guideline. See U.S. Sent'g Comm'n, Report to the Congress: Career Offender Sentencing Enhancements 40, 42 & figs. 19, 20. (2016) ["Career Offender Report"]. The Commission therefore recognized that the greater range produced by the career offender Guidelines don't better reflect Mr. Clisby's risk of reoffending, or advance the purpose of protecting the public. Instead, "[t]he normal operation of Chapter Four's criminal history provisions adequately accounts for [his] likelihood of recidivism and future criminal behavior." Id. at 44.

Also in the Career Offender Report, the Commission reported that courts generally decline to follow the career offender guideline in most "drug trafficking only" cases. Career Offender Report, supra, at 3, 35. **For offenders like Mr. Clisby, the rate of within-range sentence was just 22.5 percent, with judges sentencing below the range in 76.7 percent of cases. Id. at 35 fig. 15. In fact, offenders in the drug-trafficking only category "benefited from the largest reductions for both other government sponsored and non-government sponsored**

below range sentences, with average sentences below the guideline range of 45.6 percent and 39.6 percent, respectively." Id. at 37 & fig. 17. The average sentence imposed for these offenders was 134 months, a sentence "nearly identical to the average guideline minimum (131 months) that would have applied to those offenders through the normal operation of the guidelines." Id. at 3, 35 & fig. 14.

As a result of its findings about sentencing outcomes and risk of reoffending, the Commission recommended that Congress amend 28 U.S.C. Sec. 994 (h) so that drug offenders at all. Id. at 43-44, 45. According to the Commission, excluding these offenders from the coverage of the career offender guideline would help ensure that federal sentences better account for the severity of a person's prior records, protect the public, and avoid undue severity for certain less culpable people. While Congress has not yet acted on this recommendation, the relevance of its supporting data is unassailable.

Indeed, since 2016, courts have since continued to impose below-range sentences in the large majority of career offender cases (and not just for drug trafficking only offenders), with the average gap between the recommended career offender range and the sentence imposed only continuing to widen. See U.S. Sent'g Comm'n, The Influence of the Guidelines on Federal Sentencing- Federal Sentencing Outcomes, 2005-2017, at 7, 54-58 (Dec. 2020) (describing "a

continuing decline in the [career offender] guideline's influence, as reflected by the steady increase in the difference between the average guideline minimum and the average sentence imposed in career offender cases"). As mentioned, in fiscal year 2020, career offenders as a whole were sentenced within the career offender guideline range in just 19.6 percent of cases, and that includes those whose status depended entirely on crimes of violence. U.S. Sent'g Comm'n, Quick Facts-Career Offenders 2 (2020). The national average sentence for all career offenders was 150 months. Id. Whether on the defendant's request, the government's request, or the court's own initiative, these below-range sentences show that the career offender guideline is greater than necessary in the mine-run career offender case.

If not sentenced as a career offender, Mr. Clisby's guideline range if he were sentenced today would be (affording him the benefit of Amendment 782 and reducing leadership enhancement under Section 3B1.1, from a four-level enhancement to manager or supervisor two-level enhancement), is 262-327 months of imprisonment and providing him with a commensurate reduction to account for the 136-month reduced sentence that the Court entered (Doc. # 265, 267), thus, this Court should REDUCE Defendant's 272-month federal sentence to 126-months of imprisonment or 188-

months of imprisonment in which is a sentence, sufficient but not greater than necessary to comply with 18 U.S.C. 3553 (a) (2), in the case herein.

COVID-19 "Restrictive" Conditions. Defendant believes he deserves a reduced sentence because the pandemic has made his incarceration harsher and more punitive than "normal." He refers to "lockdowns for weeks and months at a time," no daily shower, cold food, inadequate medical treatment and personal protective equipment, "once or twice a week" access to the library and recreation, and no visits from family and loved ones.

Decisions to grant or deny motions for compassionate release are discretionary. Jones, 980 F.3d at 1106 ("Congress's use of 'may' in Sec. 3582 (c) (1) (A)) dictates that the compassionate release decision is discretionary, not mandatory.") (citation omitted). Defendant has produced no evidence that his incarceration experience during the pandemic (and beyond) has been worse than that of any other inmate. There is no "metric"—deteriorating health or otherwise—that distinguishes Defendant. An exercise of discretion by this Court requires at least this much.

See Appendix B.

Harsh confinement through COVID-19 pandemic, Mr. Clisby's

Declaration reflects the individual circumstances he endured through the Pandemic and if he were sentenced TODAY, he would have likely received a non-guideline sentence "downward variance" for COVID-19 Pandemic. The sister Circuit the Seventh Circuit Court of Appeals have held that the harsh conditions as a valid factor supporting a shorter custodial sentence, see United States v. Spano, 476 F.3d 476, 479 (7th Cir. 2007). In fact, a federal court relied upon **Spano** to impose a reduced federal sentence and utilizing harsh confinement through COVID-19 pandemic as a factor of "extraordinary and compelling reasons." See United States v. Kramer, 2023 U.S. Dist. LEXIS 11275, 2023 WL 361092 (N.D. Ill., 2023) (the district court granted motion for reduction in sentence and reduce his federal sentence to "time served" relying upon the Seventh Circuit's Ruling in **Spano,** thus, the court found the harsh confinement through the COVID-19 pandemic as a factor to find extraordinary and compelling reasons); and United States v. Curtain, 2023 U.S. Dist. LEXIS 212727, 2023 WL 8258025 (Dist. Md., 2023) (The Court therefore finds that **Norman** provides extraordinary and compelling reasons that could support a sentence reduction under Section 3582 (c) (1) (A). Even if the fact that Curtain would no longer be sentenced as a career offender is insufficient alone to establish such reasons, the Court finds that when this factor is combined with the additional factor of the severity of the conditions

of confinement during the COVID-19 pandemic, the requirement of extraordinary and compelling has been satisfied. Reduced federal sentence to 175 months of imprisonment.); United States v. Robles, 553 F. Supp. 3d 172, 182 (S.D.N.Y., 2021) ("It has limited inmates access to visitors such family, to counsel, and to rehabilitative, therapeutic, and recreational programs. And it has given rise to fears of infection and worse by inmates. In these respects, the pandemic has spawned conditions of confinement far more punishing than what could have been expected at the time of [the defendant's] sentencing."); United States v. Estrada, 2021 U.S. Dist. LEXIS 80602, 2021 WL 1626309 (S.D. Cal. Apr. 27, 2021) (the court departed from Guideline range of 46-57 months and imposed a non-guideline sentence of 24 months in part due to conditions of confinement were particularly harsh during the pandemic); United States v. Dones, 2021 U.S. Dist. LEXIS 243953, 2021 WL 6063238, at * 5 (D. Conn., Dec. 22, 2021) ("the Court will reduce Mr. Done's sentence [from a term of 100 months] to a term of sixty months to reflect the extraordinary conditions to which he has been subjected."); and United States v. Oguendo, 2023 U.S. Dist. LEXIS 8073, at *16-17 (S.D.N.Y., 2023) (In short, the Court has previously concluded, and concludes here, that pandemic-induced conditions of confinement can constitute "extraordinary and compelling circumstances, particularly for defendants who have (i) served long sentences and (ii)

been detained for the entirety of the pandemic) (emphasis added).

Department of Justice "Restriction" on Charging Mandatory Minimum Offenses. Defendant attaches to his motion a "Memorandum for all Federal Prosecutors" dated December 16, 2022) from Attorney General Merrick Garland titled, "General Department Policies Regarding Charging, Pleas, and Sentencing (Doc. 257-1 PAGEID 1831-37). He maintains that this memorandum established a "new DOJ policy"—effective January 16, 2023—such that "individuals sentenced **TODAY** would not receive any mandatory minimum charge versus when Mr. Clisby was sentenced in 2014[.]" (Doc. 257 PAGEID 1804 (emphasis in original)).

Defendant is incorrect. True, General Garland observes that "[t]he proliferation of provisions carrying mandatory minimum sentences has often caused unwarranted disproportionality in sentencing and disproportionately severe sentences." (Doc. # 257-1 PAGEID 1834). But he follows with: "In some cases, our duty to ensure that the laws are faithfully executed **will require that prosecutors charge offenses that impose a mandatory minimum sentence,** particularly where other charges do not sufficiently reflect the seriousness of the defendant's conduct, the danger the defendant poses to the community, and other important federal interests." (Id. (emphasis added)). Thus, Defendant's contention that, if sentenced today, he "could not be subjected to no

more than [240 months] of imprisonment" is off the mark. See Appendix B.

DOJ Change in Policy although it may not be considered under Section 1B1.13 (b) (6), however, it should be properly considered under Section 1B1.13 (b) (5) and in light of the evidence of "similarly situated" individuals being treated differently after the change in DOJ Policy, thus, at least one other federal court has granted a reduced federal sentence by relying upon the DOJ Change in Policy. See United States v. Riley, 2023 U.S. Dist. LEXIS 220634, 2023 WL 8600496, at *5 (E.D. LA., Dec. 12, 2023) (Granted CR and reduced federal sentence to "time served" in part based upon the DOJ's change in policy).

Unwarranted Sentencing Disparity under 18 U.S.C. 3553 (a) (6)

Defendant argues that the Court "must consider" the fact that he was sentenced to almost **"2 times the amount of time as any other co-defendant[,]"** in violation of 18 U.S.C. 3553 (a) (6). (See Doc. 257 PAGEID 1811-12; Doc. 262 PAGEID 1887-89). Not so, for a few reasons. First, and foremost, the Section 3553 (a) sentencing factors come into play only if the Court finds an extraordinary and compelling reason in support of a sentence reduction. See Jones, 980 F.3d at 1100. That hasn't happened here. Second, because the Court has since entered a Second Amended Judgment that reduced Defendant's sentence from 408 to **272** months of imprisonment, his sweeping

"2 times" argument is now factually incorrect. Third, the text of Sec. 3553 (a) (6) refers to disparities between defendants with "similar" records who have been convicted of "similar" crimes. This could, but does not necessarily, include co-defendants. Any sentencing disparity between Defendant and his co-defendants is, therefore, immaterial.

See Appendix B.

In this case, Mr. Clisby presented evidence that his 272-month sentence—even after reduction from 408 months—remains significantly longer than the sentences of his co-defendants:

1. Dorothy Clisby-100 months, 2. Dwayne Williams-120 months,

3. Michael Williams-57 months, 4. Marcus Gentry-48 months,

5. Allen Carnes-210 months, 6. Anthony Anderson-90 months

Mr. Clisby argued that at least two of his co-defendants—Michael Williams and Anthony Anderson—played more significant roles in the conspiracy than he did. According to the sentencing memorandum filed by defense counsel, Michael Williams, not Mr. Clisby, had the Mexican connection (source of supply), and Anthony Anderson, not Mr. Clisby,

was the leader, organizer, and/or manager of drug activities involving the Columbus, Ohio area. See Attachment C (Clisby's Sentencing Memorandum at Doc. # 144, Page 1 and Pages 4-6, Filed 07/20/14).

Federal courts across the country even before Section 1B1.13 (b) (6), took effect on November 1, 2023, applied an unwarranted sentencing disparity among co-defendants as a factor with other factors to amount to "extraordinary and compelling reasons" to justify a reduced federal sentence. See United States v. Ball, Case No. 06-cr-20465, 2021 WL 2351088, at *4 (E.D. Mich., June 9, 2021); United States v. Ferguson, 2021 WL 1685944, at * 3 (E.D. Mich., Apr. 29, 2021); United States v. Conley, 2021 U.S. Dist. LEXIS 40763, 2021 WL 825669, at *5 (N.D. Ill., 2021) (reducing sentence because defendant's sentence was "grossly disproportional" compared to co-defendants); United States v. Rollins, 2021 U.S. Dist. LEXIS 49514, 2021 WL 1020998, at *8 (N.D. Ill., Mar. 17, 2021) (granting Defendant's Motion for Reduction in Sentence in part in light of the need to avoid unwarranted sentence disparities among defendants); and United States v. Owens, 996 F.3d 755, 763 (6th Cir.

2021) (the combination of his rehabilitation efforts and gross disparity may justify a REDUCED sentence. VACATED and REMANDED for reconsideration).

Rehabilitation. Defendant calls the Court's attention to his meritorious post-rehabilitation efforts" in support of compassionate release. (See Doc. 257 PAGEID 1806, 1807-08, 1860-69). The government downplays them, clarifying that the "rehabilitation efforts [Defendant] highlights from his time at FCI-McDowell mostly pertain to his taking care of his own medical conditions, with his mots recent completed education course being 'SHU Basketball Official' in April 2022." (Doc. 277 PAGEID 1957).

The law is clear: rehabilitation alone "shall **not** be considered an extraordinary and compelling reason" for sentence reduction. 28 U.S.C. 994 (t) (emphasis added). However, it **"may** be considered **in combination** with other circumstances in determining whether and to what extent a reduction in the defendant's term of imprisonment is warranted." U.S.S.G. 1B1.13 (d) (emphasis added).

The Court commends any and all endeavors toward self-improvement and applauds the fact that Defendant has been incident-free for (at least) 120 months. But without a separate extraordinary and compelling reason in play, the undersigned cannot consider either

accomplishment as a means to reinforce sentence reduction. See Appendix B.

The district court although it appears that it understood it could consider Mr. Clisby's rehabilitation efforts with other factors, however, the district court simply failed to consider **all** factors together with his meritorious post-rehabilitation efforts in which amounts to an abuse of discretion. See United States v. Kindle, ___ F. Supp. 3d ___, 2024 U.S. Dist. LEXIS 48763, at *9-10 (N.D. Ill., Feb. 23, 2024) (the court granted motion for reduction in sentence and held that: "Such rehabilitation certainly contributes to the finding of an extraordinary and compelling reason to reduce Kindle's sentence); United States v. Peoples, 41 F.4th 837, 842 (7th Cir. 2022) (successful rehabilitation may be considered among other factors warranting a reduced sentence); and United States v. Owens, 996 F.3d 755, 763 (6th Cir. 2021) (the combination of his rehabilitation efforts and gross disparity may justify a REDUCED sentence. VACATED and REMANDED for reconsideration).

III. CONCLUSION

Having found no extraordinary and compelling reasons in support of a sentence reduction, the compassionate release analysis ends. United States v. Elias, 984 F.3d 516, 519 (6th Cir. 2021); see also United States v. Tomes, 990 F.3d 500, 504 (6th Cir. 2021) (citing Elias).

Defendant Cornell Clisby's Motion for a Reduction in Sentence pursuant to 18 U.S.C. 3582 (c) (1) (A) (Doc. 257) is hereby **DENIED.**

IT IS SO ORDERED.

/s/ Michael R. Barrett

JUDGE MICHAEL R. BARRETT

The U.S. Supreme Court **GRANTED** a Petition for Writ of Certiorari on June 3 and June 17, 2025, as to the question: "the court will consider the validity of U.S.S.G. 1B1.13 (b) (6). Carter v. United States, No. 24-860, and Rutherford v. United States, No. 24-820. If this Court rules in favor of Mr. Carter and Mr. Rutherford, thus, this Honorable U.S. Supreme Court should **GRANT** a GVR in light of the Carter and Rutherford Ruling.

Petitioner Clisby, argues firmly that the district court committed an error of law in which amounts to an abuse of discretion, thus, justifies VACATING and REMANDING for reconsideration in the case herein. See United States v. Lipscomb, 299 F.3d 303, 338-39 (5th Cir. 2002) (A court abuses its discretion when the court "makes an error of law" or "bases its discretion on a clearly erroneous assessment of the evidence.").

QUESTION NUMBER TWO:

Whether the Sixth Circuit and the district court abused its discretion by failing to consider all factors in conjunction with his post-sentencing rehabilitation efforts to constitute "extraordinary and compelling reasons" to render him eligible for a reduced federal sentence, thus, the Honorable U.S. Supreme Court should VACATE and REMAND for reconsideration in the case at bar.

Discussion

Although the district court considered each factor presented to demonstrate "extraordinary and compelling reasons" it failed to consider **all** the factors presented and his meritorious post-rehabilitation efforts in collectively to amount to "extraordinary and compelling reasons" to qualify him for a reduced federal sentence in which amounts to an abuse of discretion in the case herein. See Lovelace v. United States, 2023 U.S. Dist. LEXIS 230249, 2023 WL 9002690, at *14 (D.S.C. Dec. 28, 2023) (Lovelace advances three arguments for establishing "extraordinary and compelling reasons." They are (1) the substantial completion of his sentence, (2) his youth at the time of the offense, and (3) his rehabilitation while incarcerated. Individually, these arguments do not constitute an "extraordinary and compelling reason," however, they can be considered collectively.... The Court found that the three factors amounted to "extraordinary and compelling reasons" for his release);

United States v. Owens, 996 F.3d 755, 763 (6th Cir. 2021) (the combination of his rehabilitation efforts and gross disparity may justify a REDUCED sentence. VACATED and REMANDED for reconsideration); United States v. Vaughn, 62 F.4th 1071, 1073 (7th Cir. 2023) (The Seventh Circuit acknowledged that "a combination of factors may move any given prisoner past "the threshold for relief, even if one factor alone does not."); and United States v. Roper, 72 F.4th 1097, 1103-1104 (9th Cir. 2023) (the Ninth Circuit held that: "a combination of factors may move any given prisoner past [the threshold for relief] even if one factor alone does not."). Furthermore, Section 1B1.13 (d), makes clear that a meritorious post-rehabilitation efforts contributes to the finding of an extraordinary and compelling reasons. See United States v. Kindle, _____ F. Supp. 3d _____, 2024 U.S. Dist. LEXIS 48763, at *9-10 (N.D. Ill., Feb. 23, 2024) (the court granted compassionate release motion and held that: "Such rehabilitation certainly contributes to the finding of an extraordinary and compelling reason to reduce Kindle's sentence.").

The U.S. Supreme Court **GRANTED** a Petition for Writ of Certiorari on May 27, 2025, as to the question: "Whether a combination of extraordinary and compelling reasons that may warrant a discretionary sentence reduction under 18 U.S.C. 3582 (c) (1) (A) can include reasons that may also be alleged as grounds

for vacatur of a sentence under 28 U.S.C. 2255." Fernandez v. United States, No. 24-556 (May 27, 2025). If this Court rules in favor of Mr. Fernandez, thus, this Honorable U.S. Supreme Court should **GRANT** a GVR in light of the Fernandez Ruling.

Petitioner Clisby, argues firmly that the district court committed an error of law in which amounts to an abuse of discretion, thus, justifies VACATING and REMANDING for reconsideration in the case herein. See United States v. Lipscomb, 299 F.3d 303, 338-39 (5th Cir. 2002) (A court abuses its discretion when the court "makes an error of law" or "bases its discretion on a clearly erroneous assessment of the evidence.").

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Cornell Clasby

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