No.

IN THE

SUPREME COURT OF THE UNITED STATES

KAREN ALTAGRACIA PÉREZ

Petitioner,

v.

UNITED STATES,

Respondent.

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

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PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

WHETHER THE ELEVENTH CIRCUIT COMMITTED ERROR AND VIOLATED THE PETITIONER'S RIGHT TO DUE PROCESS BY IGNORING DECADES OF THIS COURT'S CONTROLLING PRECEDENT REGARDING A SENTENCING COURT'S BROAD SENTENCING DISCRETION AND THE PLAIN LANGUAGE OF THE CONTROLLING SENTENCING STATUTES, 18 U.S.C. § 3553(a) AND § 3553(e), THAT ALLOW A DISTRICT COURT IMPOSING CONDIGN SENTENCE THE DISCRETION TO GRANT A VARIANCE BASED ON § 3553(a) FACTORS IN ORDER TO COMPLY WITH THE MANDATE OF FEDERAL SENTENCING LAW TO IMPOSE A SENTENCE THAT IS "SUFFICIENT, BUT NOT GREATER THAN NECESSARY" TO REFLECT THE SERIOUSNESS OF THE OFFENSE, PROMOTE RESPECT FOR THE LAW, ADEQUATELY DETER CRIMINAL CONDUCT, AND PROTECT THE PUBLIC, IN ACCORDANCE WITH SUPREME COURT PRECEDENT, EVEN AFTER GRANTING A GOVERNMENT MOTION RECOGNIZING A DEFENDANTS SUBSTANTIAL ASSISTANCE FILED UNDER 18 U.S.C. § 3553(e), AND WHETHER THE MERE FACT THAT A MOTION FOR SUBSTANTIAL ASSISTANCE IS FILED AND GRANTED CREATES A SECONDARY MINIMUM MANDATORY LIMITING THE DISTRICT COURT AND ONLY ALLOWING FOR A SENTENCE AT THE BOTTOM OF WHATEVER THE SENTENCING GUIDELINES' SENTENCING RANGE RESULTS FROM ONLY THE DEFENDANT'S COOPERATION AND COMPLETELY IGNORING ANY OTHER APPLICABLE § 3553(a)(2) FACTORS?

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

The parties to the original proceeding in the United States District Court for the Middle District of Florida and the Eleventh Circuit United States Court of Appeals are the Petitioner Karen Altagracia Pérez, Defendant-Petitioner (hereinafter "Ms. Pérez") and the Respondent the United States, Plaintiff-Respondent. The Petitioner is not a corporation.

RELATED CASES

- *United States v. Karen Altagracia Pérez and Jovan Rivera-Rodriguez*[1], U.S. District Court Case No. 6:22-cr-00204-RBD-DCI
- *United States v. Karen Altagracia Pérez,* USCA11 Case No. 23-11336
- *United States v. Jovan Rivera-Rodríguez*, USCA11 Case No. 23-12977
- *United States v. Jovan Rivera-Rodríguez*, Petition for Writ of Certiorari, Supreme Court Case No. 26-_____

[1]Co-Defendant-Appellant and Co-Petitioner Jovan Rivera-Rodríguez, is also a related party and is filing a separate related Petition for a Writ of Certiorari addressing identical issues. Ms. Pérez respectfully requests leave to, and does hereby adopt the arguments made in Co-Petitioner Rivera-Rodríguez' Petition for a Writ of Certiorari.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Karen Altagracia Pérez, respectfully requests that a writ of certiorari be issued to review the judgment and opinion of the United States Court of Appeals for the Eleventh Circuit issued on December 2, 2025 Pet. App. A and B (App. Doc. 52-1 and 52-2). *See, United States v. Pérez, et al.,* Appeal No. 23-12336, 160 F.4th 1193 (11th Cir. 2025).

OPINIONS BELOW

On December 2, 2025, the Eleventh Circuit Court of Appeals vacated Petitioner's sentence and remanded with instructions to resentence Pérez in accordance with the opinion (App. Doc. 52), *reported in, United States v. Pérez, et al.,* Appeal No. 23-12336, 160 F.4th 1193 (11th Cir. 2025), and reproduced in the Appendix to this petition. Pet. App. A and B (App. Doc. 52-1 and Errata Doc. 52-2).

JURISDICTION

The United States Court of Appeals for the Eleventh Circuit entered a judgment vacating and remanding the Petitioner, Ms. Pérez' conviction and sentence on December 2, 2025. Pet. App. A and B (App. Doc. 52-1 and Errata 52-2), reported at *United States v. Pérez, et al.,* Appeal No. 23-12336, 160 F.4th 1193 (11th Cir. 2025); (App. Doc. 52). Pursuant to Supreme Court Rule 13.3, this petition is timely filed within the prescribed ninety-day time period from the date of the Eleventh Circuit's decision. *Id.* This Court's jurisdiction is invoked under Title 28, United States Code,

§ 1254 providing for review by this Court of decisions of the United States courts of appeals, and Supreme Court Rule 10(a) addressing this Court's jurisdiction to review decision by a Court of Appeals that so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. Const., Amend. V:

> No person shall be held to answer for a capital or otherwise infamous crime, . . . shall be . . . deprived of life, liberty, or property, without due process of law . . .

Supreme Court Rule 10.

Considerations Governing Review on Writ of Certiorari

> 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 only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:
>
> (a) a United States court of appeals has entered a decision . . . has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;
>
> . . .

Supreme Court Rule 13.

Review on Certiorari; Time for petitioning

> 3. The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). But if a petition for rehearing is timely filed in the lower court by any party, . . . , the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment.

18 United States Code § 3553

Imposition of a sentence

18 United States Code § 3553(a)

(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--

> (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
>
> (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;

(3) the kinds of sentences available;

(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 United States Code § 3553(e)

(e) Limited authority to impose a sentence below a statutory minimum.

Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as a minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.

18 United States Code § 3553(f)

(f) Limitation on applicability of statutory minimums in certain cases.

Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846), section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963), or section 70503 or 70506 of title 46, the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that--

(1) the defendant does not have--

> (A) more than 4 criminal history points, excluding any criminal history points resulting from a 1-point offense, as determined under the sentencing guidelines;
>
> (B) a prior 3-point offense, as determined under the sentencing guidelines; and
>
> (C) a prior 2-point violent offense, as determined under the sentencing guidelines;

(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

(3) the offense did not result in death or serious bodily injury to any person;

(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act; and

(5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

Information disclosed by a defendant under this subsection may not be used to enhance the sentence of the defendant unless the information relates to a violent offense.

18 U.S.C.A. § 3661

Use of information for sentencing Currentness

No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

28 U.S.C. § 994:

Duties of the Commission

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute shall promulgate and distribute to all courts of the United States and to the United States Probation System--

(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including--

(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term;

(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively; and

(E) a determination under paragraphs (6) and (11) of section 3563(b) of title 18;

(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of– . . .

28 United States Code § 1254:

Courts of Appeals; Certiorari; Certified Questions

> Cases in the court of appeals may be reviewed by the Supreme Court by the following methods:
>
> (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;
> . . . .

U.S.S.G. § 1B1.1

Application Instructions

(a) Step One: Calculation of Guideline Range and Determination of Sentencing Requirements and Options under the Guidelines Manual.--The court shall determine the kinds of sentence and the guideline range as set forth in the guidelines (see 18 U.S.C. § 3553(a)(4)) by applying the provisions of this manual in the following order, except as specifically directed:

(1) Determine, pursuant to § 1B1.2 (Applicable Guidelines), the offense guidelines section from Chapter Two (Offense Conduct) applicable to the offense of conviction. See § 1B1.2.

(2) Determine the base offense level and apply any appropriate specific offense characteristics, cross references, and special instructions contained in the particular guideline in Chapter Two in the order listed.

(3) Apply the adjustments as appropriate related to victim, role, and obstruction of justice from Parts A, B, and C of Chapter Three.

(4) If there are multiple counts of conviction, repeat steps (1) through (3) for each count. Apply Part D of Chapter Three to group the various counts and adjust the offense level accordingly.

(5) Apply the adjustment for the defendant's acceptance of responsibility and the reduction pursuant to an early disposition program, as appropriate, from Parts E and F of Chapter Three.

(6) Determine the defendant's criminal history category as specified in Part A of Chapter Four. Determine from Parts B and C of Chapter Four any other applicable adjustments.

(7) Determine the guideline range in Part A of Chapter Five that corresponds to the offense level and criminal history category determined above.

(8) For the particular guideline range, determine from Parts B through G of Chapter Five the sentencing requirements and options related to probation, imprisonment, supervision conditions, fines, and restitution.

(9) Apply, as appropriate, Part K of Chapter Five. (b) Step Two: Consideration of Factors Set Forth in 18 U.S.C. 3553(a).--After determining the kinds of sentence and guidelines range pursuant to subsection (a) of § 1B1.1 (Application Instructions) and 18 U.S.C. 3553(a)(4) and (5), the court shall consider the other applicable factors in 18 U.S.C. 3553(a) to determine a sentence that is sufficient, but not greater than necessary, to comply with the purposes of sentencing. Specifically, as set forth in 18 U.S.C. 3553(a), in determining the particular sentence to be imposed, the court shall also consider--

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

(2) the need for the sentence imposed to meet the purposes of sentencing listed in 18 U.S.C. 3553(a)(2);

(3) the kinds of sentences available;

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

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

U.S.S.G. § 5K1.1

Substantial Assistance to Authorities

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentence that is below the otherwise applicable guideline range may be appropriate.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

(1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

(3) the nature and extent of the defendant's assistance; (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;

(5) the timeliness of the defendant's assistance.

Fed. R. Crim. P. 35

Correcting or Reducing a Sentence

. . .

(b) Reducing a Sentence for Substantial Assistance.

(1) In General. Upon the government's motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person.

. . .

(3) Evaluating Substantial Assistance. In evaluating whether the defendant has provided substantial assistance, the court may consider the defendant's presentence assistance.

(4) Below Statutory Minimum. When acting under Rule 35(b), the court may reduce the sentence to a level below the minimum sentence established by statute.

(c) "Sentencing" Defined. As used in this rule, "sentencing" means the oral announcement of the sentence.

INTRODUCTION

Amongst the issues addressed by the Eleventh Circuit Court of Appeals in the opinion for which review is being sought here was whether once the government filed a substantial-assistance motion pursuant to 18 U.S.C. § 3553(e), if the District Court was authorized to further reduce Ms. Pérez' and co-defendant-appellant-petitioner Mr. Rivera's sentences based on other non-assistance factors applicable pursuant to other sections of § 3553. The Eleventh Circuit held that the sentencing court could not. *United States v. Pérez, et. al,* 160 F.4th at pp. 1194, 1195-97. In so doing it is respectfully submitted that the Eleventh Circuit ignored and *de facto* repealed by judicial fiat the provisions in § 3553(a), and other provisions of federal sentencing law, including 18 U.S.C. § 3661 ("No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.") and *Fed. R. Crim. P.* 35 (b)(4) (" Below Statutory Minimum. When acting under Rule 35(b), the court may reduce the sentence to a level below the minimum sentence established by statute."), and provisions of the Federal Sentencing Guidelines including U.S.S.G. § 1B1.1 (summarizing steps and order sentencing court should follow in determining an appropriate sentence specifically including § 3553(a) factors), that require that a sentencing court "shall impose a sentence sufficient, but not greater than necessary", § 3553(a), "to comply with the four identified purposes of sentencing: just punishment; deterrence; protection of the public, and rehabilitation." *Dean v. United States*, 581 U.S. 62, 67-68, 137 S.Ct. 1170, 1175,

197 L.Ed.2d 490 (2017), *citing*, 18 U.S.C. § 3553(a)(2)(A - D). *United States v. Pérez*, 160 F.4th at pp. 1196-97. This in spite of the clear language in these federal sentencing statutes and rules that *Pérez* essentially nullifies, and the language in the second sentence of the two sentences contained in § 3553(e) that states that in imposing the final sentence, "[s]uch sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code."

Put simply, the Eleventh Circuit's decision in *United States v. Pérez* circumvents the heart and essential purpose of federal sentencing law, again, imposition of sentences "sufficient, but not greater than necessary" to fulfill the purpose of federal sentencing law, for no real reason other than that the government said so, and based neither on the controlling statutes, § 3553(a - g), nor that statute's legislative history. In the process, the Eleventh Circuit stripped federal sentencing courts of their unquestioned broad sentencing discretion, ironically, only, at least for the moment, in cases where a defendant cooperates with the government, in contravention of decades of this Court's holdings and precedent regarding federal sentencing law after this Court's holding in *United States v. Booker*, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005). *See e.g., Pepper v. United States,* 562 U.S. 476, 489-490, 131 S.Ct. 1229, 1241-42, 179 L.Ed.2d 196 (2011) (Although a sentencing court must give respectful consideration to the Sentencing Guidelines, the Supreme Court's *Booker* decision permits the court to tailor the sentence in light of other statutory concerns as well); *Rita v. United States,* 551 U.S. 338, 127, S.Ct. 2456, 2465, 166 L.Ed. 2d 406 (2007) (The

Supreme Court concluding that appellate courts, and only the appellate courts, may in fact apply a presumption of reasonableness to sentences imposed in accordance with the Sentencing Guidelines; District Courts have the authority to impose a sentence *sans* the Sentencing Guidelines "because the case warrants a different sentence regardless [of what the guidelines provide]," as long as the district court properly calculates and considers the Sentencing Guidelines); *United States v. Gall,* 552 U.S. 38, 47-48, 128 S.Ct. 586, 595, 169 L.Ed.2d 445 (2007) (Affirming the authority of sentencing judges in federal court to impose sentences lower, in some cases substantially lower, than provided for in the Sentencing Guidelines.); *Kimbrough v. United States,* 552 U.S. 85, 92-93, 101,128 S.Ct. 558, 564-65, 570, 169 L.Ed.2d 481 (2007) (Supreme Court specifically addressing a sentencing judge's discretion to impose a lower sentence than recommended by the Sentencing Guidelines based on "the disproportionate and unjust effect that the crack cocaine guidelines have in sentencing," holding that "as a general matter, courts may vary [from Guidelines ranges] based solely on policy considerations, including disagreements with the Guidelines."). The issue of the purported limits of judicial sentencing discretion raised in Ms. Pérez' case is critically important issue to the fair and ordered administration of federal sentencing based on the law as set out in relevant applicable federal statutes and legal decisions of this Court, and not some imaginary secondary mandatory minimum mandatory sentencing regimen conceived and concocted out of whole cloth by the government and unfortunately accepted and now adopted by the Eleventh Circuit and now binding on federal sentencing judges.

STATEMENT OF THE CASE

I. History of Proceedings and Operative Facts Relevant to this Petition.

A. The Charges Lodged Against Ms. Pérez

On December 14, 2022, Ms. Pérez, Co-Defendant-Appellant-Petitioner Jovan Rivera Rodríguez ("Mr. Rivera"), and others were indicted for conspiracy to distribute, and possession with intent to distribute fentanyl in violation of 21 U.S.C. § 846 (Count One) and conspiring to commit concealment money laundering, in violation of 18 U.S.C. § 1956(h) (Count Two) (Doc. 1). Essentially, Ms. Pérez and her co-defendants were charged with conspiring to traffick in fentanyl by obtaining and distributing pills containing fentanyl disguised to look like legitimate prescription drugs. *See* Ms. Pérez' Plea Agreement (Doc. 72 at pp. 20-32)

B. The Guilty Plea

Ms. Pérez pled guilty to Count One of the Indictment, an offense involving 400 grams or more of fentanyl, thus requiring that Ms. Pérez face a statutory minimum sentence of 10 years' imprisonment. 21 U.S.C. § 841(b)(1)(A)(vi); *see,* Indictment (Doc. 1); Plea Agreement (Doc. 72 at p. 2); Ms. Pérez' Presentence Report (Doc. 157 at p.21, paragraph 96) (SEALED); Change of Plea Transcript (Doc. 230 at pp. 21-22). Ms. Pérez' Presentence Report recommended that the District Court apply a total offense level of 32 and a criminal history category of I, resulting in a guidelines range of 121

to 151months' imprisonment. *See,* Ms. Pérez' Presentence Report (Doc. 157, at pp. 16, 17, 21,paragraphs 69, 73, 97) (SEALED).

C. The Sentencing

In her sentencing memorandum, Ms. Pérez stated that she anticipated the government would file a Substantial Assistance motion to recognize her cooperation, giving the District Court authority to sentence her below the statutory minimum under 18 U.S.C. § 3553(e). *See* Ms. Pérez' Sentencing Memorandum Pet. App D (Doc. 152 at pp. 2-3, 9). But she also asked the District Court to vary downward from her Sentencing Guidelines range based on, *inter alia*, 18 U.S.C. § 3553(a) factors, *Id.* Pet. App D (Doc. 152 at pp. 4, 10–11), specifically requesting a sentence of house arrest. Ms. Pérez' Sentencing Memorandum Pet. App D (Doc.152 at pp. 1, 3-4).

The government filed a motion under U.S.S.G. § 5K1.1, 18 U.S.C. § 3553(e), and *Fed. R. Crim. P.* 35, seeking a two-level downward departure from her offense level based on her cooperation with the government and substantial assistance. *See* Government's Substantial Assistance Motion (Doc. 162 at p. 1) [SEALED]. In its Substantial Assistance Motion, the government argued that section 3553(e) authorizes District Court's to reduce a defendant's sentence below the statutory minimum based exclusively on the defendant's substantial assistance, and not for other reasons (Doc. 162 at 3-8). However, the government also acknowledged that the District Court could choose to grant a larger substantial-assistance departure (or a lesser one), but argued that the District Court could not vary

downward from the post-departure range based on non-substantial-assistance factors. (Doc. 162 at 3).

The District Court adopted the sentencing guidelines' calculations in Ms. Pérez' Presentence Report. Sentencing Transcript (Doc. 176 at 7). The District Court then followed the government's recommendation and granted a two-level downward departure based on Ms. Pérez's cooperation, reducing her guidelines' range to 97 to 121 months' imprisonment. *Id.* (Doc. 177 at 9). The government again argued that the District Court lacked the authority to vary downward from the post-departure range based on facts not related to Ms. Pérez' cooperation. *Id.* (Doc. 176 at 9). However, the District Court disagreed and said, "[U]nless and until the Eleventh Circuit tells me otherwise, I'm going to continue to view a filing of a 5K motion and the relief from the mandatory minimum … as allowing me to exercise my discretion to take into account all of the 3553 factors in fashioning a sentence that is sufficient but not greater than necessary to achieve the statutory purposes of sentencing." *Id.* (Doc. 176 at 31). The District Court then varied downward from the post-departure range of 97-121 months to impose a 66-month sentence, justifying its downward variance based on, not only Ms. Pérez' cooperation, but other factors usually considered by District Courts in fashioning the final sentencing package as required by federal sentencing statutes and long standing Supreme Court precedents, including her

minor role in the offense, her lack of any prior criminal history, her family support, and the significant collateral consequences of her conviction. Sentencing Transcript (Doc. 176 at 33-35); *See* also, Judgment Pet. App E (Doc. 170) and Statement of Reasons (Doc. 171) [SEALED]. The government objected and ultimately appealed to the Eleventh Circuit.

D. The Eleventh Circuit Court of Appeals' Decision and Opinion

As already noted, in *Pérez,* the Eleventh Circuit held that when the government files a substantial-assistance motion based on a defendant's cooperation with the government pursuant to 18 U.S.C. § 3553(e), the District Court is not allowed to further reduce the cooperating defendants' sentence based on anything not related to the substantial assistance provided and is limited to the bottom of the sentencing guideline range resulting from defendant's cooperation. *United States v. Pérez,* 160 F.4th at 1194, 1196-97. In *Pérez, a*fter reviewing § 3553(e), comparing the language in § 3553(e) to provisions of § 3553(f) dealing with the "Safety Valve" and allowing sentencing courts to go below the minimum mandatory and resulting reduced sentencing guideline range for certain defendants who meet the requirements set out therein, considering prior Eleventh Circuit cases considering similar issues, and decisions in cases from other circuits also addressing similar issues and arguably reaching the same conclusion, the Eleventh Circuit held that in considering

other 3553(a)(2) factors along with Ms. Pérez' cooperation in determining her final sentence, "[t]he district court erred. Section 3553(e) does not grant district courts authority to sentence a defendant below a statutory minimum based on non-assistance factors[,]"[and] "[t]hat conclusion follows directly from the text and structure of section 3553(e), as made clear in several of our precedents". *United States v. Pérez,* 160 F.4th at 1195. It is again respectfully submitted that the Eleventh Circuit's holding in *Pérez* is plainly wrong, as are the other decisions from the other circuits reaching the same conclusion.

REASONS FOR GRANTING THE PETITION

The law is clear that District Court's are not free to impose a sentence below a statutory minimum mandatory established by Congress except in two circumstances. First, a District Court may depart from a minimum mandatory sentence if the government files a motion for substantial assistance under 18 U.S.C. § 3553(e). Second, a District Court may grant a downward departure if the defendant qualifies for safety valve relief pursuant to 18U.S.C. § 3553(f).

In Ms. Pérez' appeal, the government asked the Eleventh Circuit to ignore decades of federal sentencing law giving District Court's broad discretion on what the District Court may consider when fashioning condign sentence, and sought to impose additional prosecutorial constraints on judicial autonomy during sentencing. The Eleventh Circuit accepted and has now adopted the government's flawed secondary minimum mandatory regimen. Specifically, that a sentencing court only has discretion

to determine (1) whether a downward departure for substantial assistance is warranted; and (2) the extent of a downward departure, but strictly limiting any possible variance or departure, if any, the District Court believes the cooperating defendant is entitled to receive. As such, now once a § 3553(e) motion is granted, this creates a new prosecutorial driven secondary mandatory minimum penalty in the form of a recalculated guideline range, which then binds the District Court at its lower end. Because the Eleventh Circuit's holding in *Pérez* is a return to the past, one which involves a mandatory guideline regime, its interpretation of § 3553(e) must fail. This is so for multiple reasons. As an initial matter, the text of § 3553(e) is at odds with this interpretation of this statutory provision. Furthermore, this construction of § 3553(e) is antagonistic to the overall structure of the statute, as well as court's other statutory and constitutional obligations at sentencing, and the Eleventh Circuit's adoption of the secondary minimum mandatory argument runs contrary to decades of prior precedent of this Court regarding determining sentences under the Sentencing Guidelines, and the independent role of sentencing judges in determining and imposing the final sentence.

In reaching its holding in *Pérez*, the Eleventh Circuit relied on textual distinctions between § 3553(e) and § 3553(f). This reliance is misplaced. Both statutes confer judicial discretion to depart from statutory minimum mandatory sentences, but neither of these provisions override a District Court's obligation to consider the factors under § 3553(a), and none provides for the limitation on the

independent final judicial sentencing discretion now binding on sentencing courts and the purpose of this Petition. Finally, nothing in the Eleventh Circuit's decision in *Pérez* or the cases relied on therein prohibit a District Court from following decades of the Court's precedent and imposing a sentence that is "sufficient, but not greater than necessary, to achieve the purposes of federal sentencing" law cabined in § 3553, which requires consideration of all the relevant characteristics of the individual defendant.

The reasoning underlying the Eleventh Circuit's holding in *Pérez* is strained, and results is the *de facto* repealing of § 3553(a) and the polestar of all federal sentencing cabined in that section at its very outset, that is, that "[t]he court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection." 18 U.S.C. § 3533(a)*; See generally and compare, Dean v. United States*, 581 U.S. at 67-68, 137 S.Ct. at 1175 (This Court holding that federal sentencing court's "'shall impose a sentence sufficient, but not greater than necessary' to comply with the four identified purposes of sentencing: just punishment; deterrence; protection of the public, and rehabilitation."). In *Pérez* the Eleventh Circuit also ignored this Court's many decision upholding the broad discretion given to federal sentencing courts and repeated affirmation of the validity of the purpose of federal sentencing law. *See e.g., Pepper v. United States,* 562 U.S. 476, 489-90, 131 S.Ct. 1229, 1241-42, 179

L.Ed.2d 196 (2011); *Rita v. United States,* 551 U.S. at 127, S.Ct. at 2465; *United States v. Gall,* 552 U.S. at 47-48, 128 S.Ct. at 595; *Kimbrough v. United States,* 552 U.S. at 92-93, 128 S.Ct. at 564-65. This Court must now reverse and order the Eleventh Circuit, and the other Circuits relying on the same flawed reasoning, to follow the law and the prior decisions of this Court.

ARGUMENT

THE ELEVENTH CIRCUIT COMMITTED ERROR AND VIOLATED THE PETITIONER'S RIGHT TO DUE PROCESS BY IGNORING DECADES OF THIS COURT'S CONTROLLING PRECEDENT REGARDING A SENTENCING COURT'S BROAD SENTENCING DISCRETION AND THE PLAIN LANGUAGE OF THE CONTROLLING SENTENCING STATUTES, 18 U.S.C. § 3553(a) AND § 3553(e), THAT ALLOW A DISTRICT COURT IMPOSING CONDIGN SENTENCE THE DISCRETION TO GRANT A VARIANCE BASED ON § 3553(a) FACTORS IN ORDER TO COMPLY WITH THE MANDATE OF FEDERAL SENTENCING LAW TO IMPOSE A SENTENCE THAT IS "SUFFICIENT, BUT NOT GREATER THAN NECESSARY" TO REFLECT THE SERIOUSNESS OF THE OFFENSE, PROMOTE RESPECT FOR THE LAW, ADEQUATELY DETER CRIMINAL CONDUCT, AND PROTECT THE PUBLIC, IN ACCORDANCE WITH SUPREME COURT PRECEDENT, EVEN AFTER GRANTING A GOVERNMENT MOTION RECOGNIZING A DEFENDANTS SUBSTANTIAL ASSISTANCE FILED UNDER 18 U.S.C. § 3553(e), AND THE MERE FACT THAT A MOTION FOR SUBSTANTIAL ASSISTANCE IS FILED AND GRANTED DOES NOT CREATE A SECONDARY MINIMUM MANDATORY LIMITING THE DISTRICT COURT AND ONLY ALLOWING FOR A SENTENCE AT THE BOTTOM OF WHATEVER THE SENTENCING GUIDELINES' SENTENCING RANGE RESULTS FROM ONLY THE DEFENDANT'S COOPERATION AND COMPLETELY IGNORING ANY OTHER APPLICABLE § 3553(a)(2) FACTORS.

There is no dispute that minimum mandatory sentences are binding, and District Courts cannot impose a sentence below a statutory minimum except in two circumstances. *See Meléndez v. United States*, 518 U.S. 120, 122, 116 S.Ct. 2057, 2061, 135 L.Ed.2d 427 (1996); *United States v. Simpson*, 228 F.3d 1294,1303 (11th Cir. 2000)

(". . . the district court had no discretion to depart downward from the relevant statutory mandatory minimum sentences."). However, there is also no dispute that a District Court may depart downward from a minimum mandatory if, as happened here, the government files a motion for substantial assistance under 18 U.S.C. § 3553(e) *Id.,* or the defendant qualifies for safety valve relief pursuant to 18 U.S.C. § 3553(f). *See United States v. Simpson,* 228 F.3d 1294, 1304-05 (11th Cir. 2000).

In interpreting the provisions of § 3553, certain principles of statutory interpretation apply. The first applicable principle of statutory interpretation is that courts must interpret criminal statutes in a manner consistent with ordinary English usage. *Flores Figueroa v. United States*, 556 U.S. 646, 650–652, 129 S.Ct. 1886, 1890-91, 173 L.Ed.2d 853 (2009). Moreover, courts also look to the statutory provision within its statutory context. *Freeman v. Quicken Loans, Inc*., 566 U.S. 624, 632, 132 S.Ct. 2034, 2041, 182 L.Ed.2d 955 (2012). In such an analysis, courts can consider statutory declarations of purpose. *See United States v. Turkette*, 452 U.S. 576, 589, 101 S.Ct. 2524, 2531-32, 69 L.Ed.2d 246 (1981). It can also interpret the term or provision in light of the full statutory context. *See, e.g., Yates v. United States*, 574 U.S. 528, 531, 135 S.Ct. 1074, 1079, 191 L.Ed.2d 64 (2015) (In a case where this court considered if Are fish considered "tangible objects" for the purpose of the statute that makes it a crime to destroy or conceal tangible objects to impede a governmental investigation, even though the term is undefined and exists in a statute that largely refers to record-keeping documents, Court noting that while "[a] fish is no doubt an object that

is tangible . . . it would cut [18 U.S.C.] § 1519 loose from its financial fraud mooring to hold that it encompasses any and all objects . . .").

A plain reading of its text shows that § 3553(a) includes two mandatory aspects. First, the statute requires courts to "impose a sentence sufficient, but not greater than necessary, to comply with" the factors set forth in § 3553(a)(2). *Id.* Moreover, the statute states that in imposing such a sentence, the District Court is obligated to consider the individual § 3553(a) factors. § 3553(a)(2) (Listing factor sentencing court must consider to determine an appropriate sentence). *Dean v. United States*, 581 U.S. at 67-68, 137 S.Ct. at 1175, *citing*, 18 U.S.C. § 3553(a)(2)(A - D); *see also and compare*, *United States v. Rodríguez*, 527 F.3d 221, 228 (1st Cir. 2008) (First Circuit discussing process for fashioning a final sentencing package, holding, *inter alia*, that "***. . . a district court should not evaluate a request for a variant sentence piecemeal, examining each section 3553(a) factor in isolation, but should instead consider all the relevant factors as a group and strive to construct a sentence that is minimally sufficient to achieve the broad goals of sentencing.***") (emphasis added).

Significantly, these mandatory obligations are stated in the first two lines of the statute. Thus, § 3553(e) must be read alongside these mandatory principles, which are designed to accomplish just sentencing. Consistent with these provisions, § 3553(e) provides that "[u]pon the filing of the motion by the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation and

prosecution of another person who has committed an offense." 18 U.S.C. § 3553(e). The reference to substantial assistance in the text primarily addresses the type of motion that needs to be filed by the Government before a court can depart below the minimum mandatory. Thus, the explicit limitation on judicial autonomy in § 3553(e) is found in the requirement that a District Court only has authority to depart from the minimum mandatory ***upon the filing of a Government motion***, and that motion must be predicated on substantial assistance.

However, nothing in § 3553(e), its legislative history, or the statutory notes related to it, include any terms or language supporting the Eleventh Circuit's holding in *Pérez* that the recalculated guideline calculation becomes a new prosecutorial created secondary statutory minimum mandatory that then circumvents the clear language of § 3553(a). Rather, the only reference to a mandatory penalty refers to the initial minimum mandatory under the criminal statute. Nothing in § 3553(e) suggests that the District Court is relieved of complying with the "overarching provision" of § 3553(a) "instructing district courts 'to impose a sentence sufficient, but not greater than necessary' to accomplish the goals of sentencing." § 3553(a); *Dean,* , 581 U.S. at 67-68, 137 S.Ct. at 1175.

Also, and importantly, the second sentence of the two sentences contained in § 3553(e) states that in imposing the final sentence, "[s]uch sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code." Section 994 explains the "Duties of the [Sentencing Guidelines] Commission" which include, *inter alia*, "to

promulgate and distribute" to all federal courts and probation offices "general policy statements regarding the use and implementation of the Sentencing Guidelines that ***"would further the purposes set forth in section 3553(a)(2) of title 18, United States Code"***. 28 U.S.C. § 994(a)(2) (emphasis added).

Moreover, as set out in this Court's decision in *Pepper*, a District Court at re-sentencing may consider evidence of the defendant's post-sentencing rehabilitation, and such evidence may, in appropriate cases, support a downward variance from the now-advisory federal Sentencing Guidelines range. 562 U.S. at 489-490, 131 S.Ct. at 1241-42. In reaching this holding this Court expounded on the purposes of sentencing in federal criminal cases, and the broad discretion District Courts have under the post-*Booker* advisory guidelines. On these critical issues, this Court noted in *Pepper*:

> It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and . . . that the punishment should fit the offender and not merely the crime. . . . ***Consistent with this principle, we have observed that both before and since the American colonies became a nation, courts in this country and in England practiced a policy under which a sentencing judge could exercise a wide discretion in the sources and types of evidence used to assist him in determining the kind and extent of punishment to be imposed within limits fixed by law.*** In particular, we have emphasized that highly relevant-if not essential-to the selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics. ***Permitting sentencing courts to consider the widest possible breadth of information about a defendant ensures that the punishment will suit not merely the offense but the individual defendant.***

Pepper, 562 U.S. at 487-88, 131 S.Ct. at 1239-40 (emphasis added) (citations omitted).

Here, it is difficult to imagine a holding or reasoning more contrarian to this

Court's holding in *Pepper* than the Eleventh Circuit's holding in *Pérez.* It is beyond per adventure that District Courts are not only allowed to consider § 3553(a)(2) factors when imposing condign sentence, they are required to take those factors into account, and nothing in any federal sentencing statue or rule says or permits otherwise including § 3553(e). *See also and compare,* 18 U.S.C. § 3661 ("No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence."); *Fed. R. Crim. P.* 35 (b)(4) (" Below Statutory Minimum. When acting under Rule 35(b), the court may reduce the sentence to a level below the minimum sentence established by statute."); U.S.S.G. § 1B1.1 (summarizing steps and order sentencing court should follow in determining an appropriate sentence specifically including § 3553(a) factors)

The Eleventh Circuit's holding in *Pérez* holding that a District Court cannot consider any § 3553(a) factors after it grants a motion under § 3553(e) ignores applicable sentencing statues and rules, U.S.S.G. § 5K1.1, *Fed. R. Crim. P.* 35(b), 18 U.S.C. § 3553 (a - g), and again, the decades long line of this Court's decisions. It is also antagonistic to the mandatory language of § 3553(a), which enumerates several factors that the District Court "***shall consider***" at sentencing. § 3553(a) (emphasis added). A contrary interpretation would not only defeat the purpose of the statute, but also would render § 3553(a) inoperative or superfluous, and again, result in the *de facto* repeal of § 3553(a) not by legislative enactment, but instead by judicial fiat, and would simply be wrong, and violate Ms. Pérez' rights to due process.

Of course, courts should decline to interpret a statutory provision that would render another part of the statute inoperative or superfluous. *See, e.g., Corley v. United States*, 556 U.S. 303, 314, 129 S.Ct. 1558, 1565, 173 L.Ed.2d 443 (2009); *Yates,* 574 U.S. at 543, 135 S.Ct. at 1085. Instead, "provisions of a text should be interpreted in a way that renders them compatible." *Hylton v. U.S. Atty. Gen* ., 992 F.3d 1154, 1160 (11th Cir. 2021) (quoting Scalia & Garner, Reading Law § 55, at 331); *see also United States v. Jackson*, 55 F.4th 846, 859 (11th Cir. 2022), *affirmed sub nom. Brown v. United States,* ___ U.S. ___ , 144 S.Ct. 1195, ___ L.Ed.2d ___ (2024) ("When possible, we interpret the provisions of a text harmoniously").

The Eleventh Circuit's interpretation of § 3553(e) in *Pérez* not only disregards the mandatory requirements of § 3553(a), and the long line of binding Supreme Court precedent interpreting § 3553(a), it also facilitates the potential imposition of sentences that are hostile to the § 3553(a) factors. Indeed, if a District Court is required to disregard the § 3553(a) factors after granting a § 3553(e) departure, then it could be forced to impose a sentence that does not result in just punishment or promote respect for the law. *See* 18 U.S.C. § 3553(a)(2)(A). Shackled by such ends justify the means reasoning, a District Court could likewise be forced to impose a sentence that ignores a defendant's low risk of recidivism or medical needs. 18 U.S.C. § 3553(a)(2)(C-D), or the many other factors that traditionally guide a District Court in fashioning an appropriate sentence. The District Court could not consider a defendant's history and characteristics and thus the unique circumstances that sometime mitigate his or her crime and punishment. *See* 18 U.S.C. § 3553(a)(1). In fact, the holding in *Pérez* could

arguably result in preventing cooperating defendants from coming forward since they may do better relying on the possible lower sentence considering all § 3553(a) factors instead of a possible § 3553(e) substantial assistance motion and the post-*Pérez* limitations to the sentencing court's equity and forced complete reliance on the prosecutor's succor.

The Eleventh Circuit's holding in *Pérez* is also irreconcilable with the traditional understanding of sentencing procedure embraced by the federal judiciary. For example, it would obviate any consideration of a sentencing disparity under 18 U.S.C. § 3553(a)(6), undermining the "evenhandedness and neutrality" that are the "distinguishing marks of any principled system of justice." *Koon v. United States*, 518 U.S. 81, 113, 116 S.Ct. 2035, 2053, 135 L.Ed.2d 392 (1996). Indeed, the holding in *Pérez* will inevitably lead to sentencing disparities arising from the wide discrepancies in the degree or extent of substantial assistance departures that are awarded across the various federal circuits. According to the United States Sentencing Commission, from 2009 to 2104, the extent of departures under U.S.S.G. § 5K1.1 in the District of Columbia and Second Circuits were 77.7% and 73.5% respectively. *See Id.* at Table A-1. Conversely, during this same time span, the extent of the § 5K1.1 reductions in the Eleventh Circuit was 45.4%. *See Id.*

At Ms. Pérez' sentencing, § 3553(a) obligated the Court to impose a sentence that was sufficient but not greater than necessary to achieve the purposes of federal sentencing law, and required it to consider § 3553(a) factors in determining that sentence should be. *Dean,* 581 U.S. at 67-68, 137 S.Ct. at 1175. It is respectfully

submitted that is what the District Court did. After granting the Government's requested reduction of two levels for substantial assistance, and calculating the resulting guideline range, the Court then turned to an analysis of the § 3553(a) factors at arriving at a sentence that was "sufficient but not greater than necessary" as required by that same statute. Sentencing Transcript (Doc. 176 at 31-35) [App. 84, App. 114-118]; Judgment, Pet. App. E (Doc. 170); Statement of Reasons (Doc. 171) [SEALED]. In doing such, the District Court harmonized the various provisions of § 3553(a) and § 3553(e) in fashioning and imposing a fair and just sentence.

Notably, the District Court's sentencing process was consistent with the sentencing procedure established after *Booker*. *See United States v. Henry*, 1 F4th 1315, 1323 (11th Cir. 2021). As *Henry* explains, [t]he Sentencing Commission now explicitly directs District Courts to follow that same sequence. The Sentencing Guidelines instruct District Courts that after first determining "the kinds of sentence and the guideline range", *citing* § 1B1.1(a), and then considering departures, policy statements, and commentary, § 1B1.1(b), District Courts ***"shall then consider the applicable factors in 18 U.S.C. § 3553(a) taken as a whole.***" § 1B1.1(a) - (b) *United States v. Henry*, 1 F4th at 1323 (emphasis added). This only confirms the conclusion that a District Court must first determine the guideline range and kind of sentence, before turning to the applicable factors in § 3553(a) and considering whether to vary from the advisory sentence. *See Id.* It would be strange, to say the least, to hold that a District Court is categorically prohibited from considering any other factors

under the sentencing statutes, including 18 U.S.C. § 3553(a) and 18 U.S.C. § 3661, in determining whether a further variance is appropriate.

In reaching its decision in *Pérez,* the Eleventh Circuit concluded that the plain language of § 3553's statutory scheme supported its holding that a District Court can only depart from the statutory minimum for cooperation, that the title of § 3553(e) – "Limited authority to impose a sentence below a statutory minimum" – supports this contention. *Pérez,* 160 F.4th at 1195-96, while in contrast, the title of § 3553(f) – "Limitation on applicability of statutory minimums in certain cases" – shows that a District Court is not bound by substantial assistance factors and can treat the case like any other case. *Id.*

However, a more thorough analysis of the provisions of § 3553(e) and (f) contradicts this reasoning in support of the flawed holding in *Pérez*. First, one provision, § 3553(f), the Safety Valve, is used for defendants with limited non-violent criminal histories who were not managers or supervisors and who have provided information limited to the offense charged, § 3553(f)(1 -5), while the other provision, § 3553(e) is much broader and applies to all defendants who choose to cooperate, no matter their criminal history or their role in the offense, and it requires the defendant to provide all information related to any criminal activity they are aware of. Comparing the two, as the government and the Eleventh Circuit did, was like comparing apples and oranges. Essentially useless.

Also, as previously noted, § 3553(e) states:

> **Limited Authority To Impose a Sentence Below a Statutory Minimum**.
>
> Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as a minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense.

The limitation on the District Court's authority in § 3553(e) stems from a condition precedent – the filing of a substantial assistance motion by the Government. If the government does not file such a motion, the District Court is bound by the minimum mandatory. Thus, the court's authority is limited or rather non-existent until and unless the government files a motion.

In contrast, § 3553(f) does not contain such a limitation through the prerequisite of a substantial assistance motion. Section 3553(f) states, in pertinent part, that:

> **Limitation on Applicability of Statutory Minimums in Certain Cases.**
>
> Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846), section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963), or section 70503 or 70506 of title 46, the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence.

Section 3553(f) also provides that to impose a sentence without regard to the statutory minimum the District Court must find that the defendant meets certain criteria involving such factors of criminal history, use or threats of violence, death and role. *Id.* Section 3553(f) further provides that the defendant must proffer with the Government prior to sentencing. *Id.*

Unlike § 3553(e), the District Court, rather than the prosecutor, is empowered to make the determination concerning safety-valve, relief under § 3553(f). Thus, there is no limitation on the District Court's ability to sentence below the statutory minimum. Indeed, the District Court does not confront a limitation on its authority in the statutory prerequisite of a substantial assistance motion necessary for a § 3553(e).

To be sure, the "limitation" referenced in § 3553(e) means that a District Court is prevented from acting unless the government files a substantial assistance motion. Similarly, the term "limitation" contained in § 3553(f) means that the minimum mandatory is obligatory, unless the District Court makes certain finding under the statute. This construct based on an interpretation of the statutes undermines the holding in *Pérez* that a District Court has no discretion to consider the § 3553(a) factors after granting a substantial assistance departure under § 3553(e). Such a broad restriction is not present in the statute's text, nor its legislative history or statutory notes.

Also, none of the decisions cited in *Pérez* trump the clear mandate of the many cases of this Court requiring that sentencing courts follow the ***"broad command that instructs courts to 'impose a sentence sufficient, but not greater than necessary, to comply with' the four identified purposes of sentencing: just punishment, deterrence, protection of the public, and rehabilitation."*** *See, Dean v. United States*, 581 U.S. at 67-68, 137 S.Ct. at 1175, *citing,* 18 U.S.C. § 3553(a)(2)(A - D) (emphasis added).

In *fine,* if this Court allows the holding in *Pérez* to stand limiting the District Court's sentencing discretion in designing a holistic, appropriate, and fair "sentencing package" that comports with the goals of federal sentencing law, *Dean,* and consider the relevant facts and circumstances of the individual defendant, *Pepper,* including a defendant's cooperation with the government, § 3553(e), it is respectfully submitted, that the Court will have to, like the Eleventh Circuit and the other Circuits who have followed this flawed reasoning, ignore four decades of federal sentencing law. Again, this Court must reverse the holding in *Pérez*, and instead uphold long standing federal sentencing law and practice.

This Petition for a Writ of Certiorari should be granted.

CONCLUSION

THEREFORE, Petitioner KAREN PÉREZ, respectfully requests that this Court grant this Petition for a Writ of Certiorari.

RESPECTFULLY SUBMITTED, this February 23, 2026.

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APPENDIX