

# APPENDIX A

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 25-6362**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JORGE PETTER,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, Senior District Judge. (2:06-cr-00162-RAJ-JEB-1)

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Submitted: September 25, 2025

Decided: September 30, 2025

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Before GREGORY and WYNN, Circuit Judges, and FLOYD, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Jorge Petter, Appellant Pro Se. Amanda L. Cheney, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Jorge Petter appeals the district court's order denying his 18 U.S.C. § 3582(c)(1) motion for compassionate release. We have reviewed the record and find no abuse of discretion. *See United States v. Bethea*, 54 F.4th 826, 831 (4th Cir. 2022) (stating standard of review). Accordingly, we affirm the district court's order. *United States v. Petter*, No. 2:06-cr-00162-RAJ-JEB-1 (E.D. Va., Apr. 7, 2025). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

# **APPENDIX B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**JORGE PETTER,**

**Petitioner,**

**v.**

**Criminal No. 2:06-cr-162**

**UNITED STATES OF AMERICA,**

**Respondent.**

***MEMORANDUM OPINION AND ORDER***

Before the Court is Jorge Petter's ("Petitioner") *pro se* Motion for Compassionate Release under 18 U.S.C. § 3582(c)(1)(A). ECF No. 371 ("Pet'r's Mot."). The Government opposed the Motion. ECF No. 379 ("Resp. Opp."). Petitioner replied. ECF No. 380 ("Pet'r's Reply"). This matter is now ripe for judicial determination. For the reasons below, Petitioner's Motion is **DENIED.**

**I. FACTUAL AND PROCEDURAL HISTORY**

On January 25, 2007, a Grand Jury in the Eastern District of Virginia indicted Petitioner on 53 counts: Count 1 charged Petitioner with Conspiracy to Distribute and Possess with Intent to Distribute Cocaine, Heroin, and Cocaine Base, in violation of 21 U.S.C. § 846. Present. Investig. Rep. ¶ 1, ECF No. 373 ("PSR"). Count 2 charged Petitioner with Conspiracy to Import Narcotics, in violation of 21 U.S.C. § 963, 960(a)(1) and 952. *Id.* Counts 22, 25, 29, 31, 32, 34, 36, 38, 43, 46, 49, 50, and 54 charged Petitioner with Distribution and Possession with Intent to Distribute Cocaine, Heroin, and Cocaine Base, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. *Id.* Counts 37, 41, 42, and 44 charged Petitioner with Use of a Communication Facility to Facilitate

Felony Narcotics Violations, in violation of 21 U.S.C. § 843(b). *Id.* Count 53 charged Petitioner with Making False, Fictitious, and Fraudulent Statements and Representations, in violation of 18 U.S.C. § 1001(a)(2). *Id.* On March 26, 2007, Petitioner pled guilty to Counts 1 and 53 of the Indictment. *Id.* ¶ 2.

According to his Presentence Investigation Report (“PSR”), from summer 1997 to about October 23, 2006, Petitioner and other co-defendants distributed cocaine and heroin in the Eastern District of Virginia. *Id.* ¶ 13. On numerous occasions, Petitioner arranged to send narcotics from Panama to Norfolk to distribute into the community. *Id.* ¶¶ 16–31. On July 5, 2005, the United States Customs and Border Protection discovered cocaine at the Norfolk International Terminal. *Id.* ¶ 32. The next day, Petitioner’s co-conspirators went to the terminal to retrieve the drugs, but the agents took them into custody. *Id.* Petitioner continued to distribute drugs until, on October 22, 2006, agents observed Petitioner conduct a hand transaction and subsequently arrested Petitioner and other co-conspirators. *Id.* ¶¶ 32–61. On August 17, 2007, the Court sentenced Petitioner to 372 months, followed by 5 years of supervised release. ECF No. 142.

On September 26, 2024, Petitioner filed a Motion for Compassionate Release. On December 6, 2024, the Government responded in opposition. On December 23, 2024, Petitioner replied.

Petitioner is serving his term of imprisonment at Memphis FCI with a projected release date of July 13, 2033.<sup>1</sup>

## II. LEGAL STANDARD

### A. The Threshold Requirement Standard

A petitioner may bring a motion to modify their sentence after they have “fully exhausted

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<sup>1</sup> See Federal Bureau of Prisons, *Find an Inmate*, BOP.gov, <https://www.bop.gov/inmateloc/> (last visited Mar. 10, 2025).

all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the [petitioner]’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the [petitioner]’s facility, whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A). Accordingly, a petitioner seeking compassionate release has two options after requesting that the Bureau of Prisons (“BOP”) bring a motion on their behalf: (1) exhaust their administrative remedies; or (2) wait 30 days from the date of their initial request to the BOP. *United States v. Muhammad*, 16 F.4th 126, 131 (4th Cir. 2021) (“§ 3582(c)(1)(A) outlines two routes – one of which does not require exhaustion of administrative remedies.”).

In other words, a petitioner may satisfy the threshold requirement if they “request[] the Bureau of Prisons to bring a motion on their behalf and *either* fully exhaust[] all administrative rights to appeal the Bureau’s decision *or* wait[] 30 days from the date of their initial request to file a motion in the district court.” *Id.* (emphasis in original). Thus, a petitioner who made a request to the BOP at least 30 days prior may seek compassionate release with the district court whether the BOP has ruled on the request or not. *Id.* (holding petitioner satisfied the threshold requirement by filing his compassionate release motion 149 days after submitting a request to the warden, which the warden denied) (citing *United States v. Garrett*, 15 F.4th 335, 338 (5th Cir. 2021); *United States v. Harris*, 973 F.3d 170, 171 (3rd Cir. 2020); and *United States v. Alam*, 960 F.3d 831, 833 (6th Cir. 2020)). Moreover, the threshold requirement is a non-jurisdictional claim-processing rule, and thus may be waived or forfeited if not timely raised. *Id.* at 129-30 (collecting cases from sister circuits holding the same).

#### **B. The Compassionate Release Standard**

As amended by the First Step Act, a court may modify a term of imprisonment by motion of the petitioner after considering the factors set forth in 18 U.S.C. § 3553(a) if “extraordinary and

compelling reasons warrant such a reduction.” 18 U.S.C. § 3582(c)(1)(A)(i). “Extraordinary and compelling reasons” is defined by the United States Sentencing Commission (“Sentencing Commission”) in United States Sentencing Guidelines (“U.S.S.G.”) § 1B1.13. Yet after the First Step Act amended § 3582(c)(1)(A) to allow defendants to petition the district court directly without clearance from the BOP, U.S.S.G. § 1B1.13 became advisory and nonbinding on courts’ application of § 3582(c)(1)(A) because § 1B1.13 was no longer an “applicable” Sentencing Commission policy statement. *See United States v. McCoy*, 981 F.3d 271, 276, 283 (4th Cir. 2020). Courts were thus “empowered to consider *any* extraordinary and compelling reason for release that a defendant might raise.” *Id.* at 284 (quoting *United States v. Zullo*, 976 F.3d 228, 230 (2d Cir. 2020)). The most recent amendments to the Sentencing Guidelines went into effect on November 1, 2023, and U.S.S.G. § 1B1.13 now contemplates that a defendant may file a motion for compassionate release directly with the district court. *See* U.S.S.G. § 1B1.13(a) (2023). Therefore, § 1B1.13 is now an “applicable” policy statement under § 3582(c)(1)(A), and the Court must ensure that a sentence reduction granted under § 3582(c)(1)(A) is “consistent with” that Guideline. 18 U.S.C. § 3582(c)(1)(A); *see Brown*, --- F. Supp. 3d ---, No. JKB-08-00415, 2023 WL 8653179, at \*2 (D. Md. Dec. 13, 2023).

Section 1B1.13(b) identifies five broad categories by which defendants may demonstrate extraordinary and compelling reasons to reduce a sentence: (b)(1) medical circumstances; (b)(2) the defendant’s age; (b)(3) family circumstances; (b)(4) whether the defendant was a victim of abuse; (b)(5) other reasons (catch-all provision);<sup>2</sup> and (b)(6) whether the defendant received an unusually long sentence. § 1B1.13(b)(1)–(6). Section 1B1.13(b)(6) provides:

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<sup>2</sup> This catch-all provision allows courts to continue to exercise discretion in considering “any extraordinary and compelling reason for release that a defendant might raise.” *McCoy*, 981 F.3d at 284; *see Brown*, 2023 WL 8653179, at \*2 (“This catchall maintains the broad discretion conferred on district courts to consider a wide array of extraordinary and compelling justifications for release.”).

If a defendant received an unusually long sentence and has served at least 10 years of the term of imprisonment, a change in the law (other than an amendment to the Guidelines Manual that has not been made retroactive) may be considered in determining whether the defendant presents an extraordinary and compelling reason, but only where such change would produce a gross disparity between the sentence being served and the sentence likely to be imposed at the time the motion is filed, and after full consideration of the defendant's individualized circumstances.

However, there are limitations on the changes in law being extraordinary and compelling to warrant a sentence reduction. § 1B1.13(c). The amended policy statement provides that “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.” *Id.* If a defendant can show that extraordinary and compelling reasons exist to warrant a sentence reduction under this policy statement, then the court may consider it. *Id.* Nevertheless, the Court may consider a combination of factors, including but not limited to those listed in U.S.S.G. § 1B1.13, when evaluating whether extraordinary and compelling circumstances exist to modify a sentence under 18 U.S.C. § 3582(c)(1)(A)(i). Additionally, *pro se* filers are entitled to more liberal construction of their pleadings. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

### III. DISCUSSION

#### A. The Threshold Requirement

The Court finds that Petitioner satisfied the threshold requirement. The Government argues that Petitioner's request to the Warden of Memphis FCI for compassionate release is undated; however, Petitioner included a copy of the certified mail receipt showing that he mailed his request on July 16, 2024. Resp. Opp. at 3. On October 21, 2024, the Warden denied Petitioner's request. Resp. Opp. Ex. A. For these reasons, the Court finds this information sufficient to support that Petitioner exhausted his administrative remedies. Thus, Petitioner meets the threshold

requirement.

### **B. Petitioner's Compassionate Release Request**

The Court now addresses whether Petitioner has set forth extraordinary and compelling reasons to modify his sentence. Petitioner raised seven arguments in support of his motion: 1) he did not receive points for acceptance of responsibility; 2) there is a national sentencing disparity; 3) incarceration during the COVID-19 pandemic; 4) a change in the Department of Justice policy; 5) sentencing disparity amongst co-defendants; 6) rehabilitation; and 7) § 3553(a) factors warrant compassionate release. Pet'r's Mot. at 4. Therefore, Petitioner asks the Court to reduce his sentence to time served or twenty (20) years of imprisonment. *Id.* at 28. The Court will address each argument separately.

#### *i. Acceptance of Responsibility*

Petitioner argues that, if sentenced today, he would receive credit for acceptance of responsibility under Amendment 810. Pet'r's Mot. at 5–6. However, “[a] defendant who enters a guilty plea is not entitled to an adjustment under this section as a matter of right.” U.S.S.G. § 3E1.1, App. Note 3; *see United States v. Apple*, 915 F.2d 899, 913 (4th Cir. 1990) (“A defendant who enters a guilty plea is *not* entitled to a sentencing reduction as a matter of right, . . . ; a guilty plea *may* provide some evidence of the defendant’s acceptance of responsibility, but it does not by itself entitle a defendant to the two level reduction.”). Petitioner’s guilty plea alone did not justify receiving credit for acceptance of responsibility.

Moreover, Petitioner previously litigated this issue in a 28 U.S.C. § 2255 petition,<sup>3</sup> in which the Court denied Petitioner’s request to vacate his sentence on this ground. ECF Nos. 171, 188.

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<sup>3</sup> Section 2255 allows a federal prisoner “claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States . . . [to] move the court which imposed the sentence to vacate, set aside, or correct the sentence.” 28 U.S.C. § 2255.

Petitioner appealed, and the United States Court of Appeals for the Fourth Circuit (“Fourth Circuit”) dismissed Petitioner’s appeal. ECF No. 213. Thus, Petitioner cannot use a § 3582 petition to relitigate issues that the Court and the Fourth Circuit already decided. Further, “[a] § 3582(c)(2) motion is not the appropriate vehicle for raising issues related to the original sentencing.’ Those are arguments for direct appeal and are not cognizable under § 3582(c)(2).” *See United States v. Kennedy*, 722 F.3d 439, 443 (D.C. Cir. 2013).

In addition, there is evidence inconsistent with Petitioner’s acceptance of responsibility. According to the PSR, Petitioner “adamantly denied selling heroin to any individual in the conspiracy” and “denied having any role in the importation of narcotics.” PSR ¶ 68. Accordingly, this demonstrates that Petitioner did not accept responsibility for his conduct, which further bolsters why he did not receive credit for acceptance of responsibility. *See United States v. Gadson*, 77 F.4th 16, 23 (1st Cir. 2023), *cert. denied*, 144 S. Ct. 823 (2024) (“Further, [i]t is within the discretion of the district court to deny a reduction on the basis of its determination that a defendant has resorted to half-truths or evasions from the truth in an effort to minimize his or her culpability.”).

Also, Amendment 810<sup>4</sup> does not help Petitioner’s case either. Even if sentenced today, he would not receive the benefit of acceptance of responsibility because his conduct outweighs such acceptance. Thus, Petitioner has not demonstrated extraordinary and compelling reasons under § 3E1.1 to warrant compassionate release.

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<sup>4</sup> Amendment 810 provides, “A defendant who falsely denies, or frivolously contests, relevant conduct that the court determines to be true has acted in a manner inconsistent with acceptance of responsibility, but the fact that a defendant’s challenge is unsuccessful does not necessarily establish that it was either a false denial or frivolous.”

*ii. National Sentencing Disparity*

Petitioner contends that there is a national disparity between his sentence and those who committed the same crime. Pet'r's Mot. at 7. Petitioner states that the "average national sentence for the same crime today [is] 285 months and the median length of imprisonment [is] 278 months." *Id.* Further, Petitioner cited two cases in support of his argument, *United States v. Ortiz*, No. 17CR2283-MMA-1, 2023 WL 2229262 (S.D. Cal. Feb. 24, 2023) (unpublished) (The defendant pled guilty to possession of methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1), and sentenced to 120 months in custody. The court later determined that the defendant's sentence was longer than the terms other defendants convicted of the same offense receive in the district today.) and *United States v. Monteleone*, No. 92-CR-351 (ARR), 2023 WL 2857559 (E.D.N.Y. Apr. 10, 2023) (unpublished) (The Government charged the defendant with murder in furtherance of a RICO conspiracy and murder, and the court sentenced him to multiple current terms of life imprisonment under the mandatory sentencing guidelines in effect at the time. The court later determined that his sentence was longer than the national average for murder, which is closer to 20 years.). As such, the Court construes Petitioner's Motion as receiving an unusually long sentence.

The Government, on the other hand, argues that Petitioner has not provided a basis to conclude that there is a national sentencing disparity. Resp. Opp. at 5–6. Additionally, the national sentencing averages Petitioner provided "disregard individual circumstances and only reflect a broad grouping of sentences imposed on a broad grouping of criminal defendants." *Id.*

Under U.S.S.G. § 1B1.13(b)(6), courts may consider non-retroactive changes in the law as a basis for compassionate release in cases "where (a) the defendant is serving an unusually long sentence; (b) the defendant has served at least ten years of the sentence; and (c) an intervening

change in the law has produced a gross disparity between the sentence being served and the sentence likely to be imposed at the time the motion is filed.” *Id.*; see U.S.S.G. Amendment 814.

Here, there is no dispute that Petitioner has served at least ten years of his sentence. However, Petitioner’s sentence is not unusually long, and there is not an intervening change in the law producing a gross disparity in this case. Accordingly, § 1B1.13(b)(6) is an insufficient ground for Petitioner to rely on to seek compassionate release based on an alleged national sentencing disparity. Furthermore, the statistics and cases Petitioner referenced in his Motion do not account for the individualized circumstances of each defendant. In this case, Petitioner received a four-level increase because of his role in the offense. See PSR, Worksheet A. The statistics and cases referenced do not even consider any adjustments or enhancements that are distinguishable for the Court. Therefore, the Court finds that Petitioner fails to present the alleged national sentencing disparity as an extraordinary and compelling reason to warrant a reduction.

*iii. Incarceration during COVID-19*

Petitioner argues that restrictive BOP conditions during COVID-19 created an intolerant environment that warrants compassionate release. Pet’r’s Mot. at 9–10. Specifically, Petitioner stated the prison was on lockdown for weeks, he was unable to take daily showers, the BOP denied him proper cleaning solutions for his cell, he had limited recreation time, and it was difficult for him to receive visits from his family members. *Id.*

The Court recognizes, and in no way minimizes, the harsh realities incarcerated individuals have faced during the pandemic, but Petitioner does not mention any potential harsher conditions of confinement that are unique to him for purposes of compassionate release. See *United States v. Ramirez*, 2021 WL 5233512, at \*5 (S.D.N.Y. Nov. 10, 2021) (“If challenging the conditions of confinement caused by the pandemic warranted a sentence reduction here, essentially every inmate

who has been in BOP custody at any time since March 2020 would be entitled to a sentence reduction.”). Thus, the Court finds that the conditions of the prison during COVID-19 is not an extraordinary and compelling reason to warrant release.

*iv. The United States Department of Justice Policy Memorandum*

Petitioner argues that Former Attorney General Merrick Garland issued a memo on December 16, 2022, directing federal prosecutors to refrain from charging defendants under mandatory minimums. Pet’r’s Mot. at 12; *see* Archive of Memorandum by Attorney General Garland, *Office of the Attorney General*, Memorandum to All Federal Prosecutors about Additional Department Policies Regarding Charging, Pleas, and Sentencing in Drug Cases, JUSTICE.GOV, <https://www.justice.gov/archives/ag/file/1265321/dl?inline> (Dec. 16, 2022). As such, Petitioner argues that defendants sentenced today under the same offense would not receive a mandatory minimum. Pet’r’s Mot. at 12. However, the Government asserts that it was within its discretion at the time of Petitioner’s offense conduct to charge him with a mandatory minimum sentence. Resp. Opp. at 8–9.

It has long been settled precedent in this country that charging decisions lie within the prosecutor’s discretion. *See United States v. Batchelder*, 442 U.S. 114, 124 (1979) (“Whether to prosecute and what charge to file or bring before a grand jury are decisions that generally rest in the prosecutor’s discretion.”). However, “[s]electivity in the enforcement of criminal laws is, of course, subject to constitutional constraints.” *Id.* at 125. Here, Petitioner does not allege that improper considerations motivated his prosecution. Instead, Petitioner argues that defendants sentenced today who committed the same conduct as Petitioner are receiving sentences without mandatory minimums. But Petitioner misses the mark here. Those alleged defendants receiving sentences without a mandatory minimum are **because of a prosecutor’s discretion not to subject**

**those alleged defendants to a mandatory minimum.** It is imperative for Petitioner to understand that charging decisions lie solely within the United States Attorney's Office, not with the Court. This Court does not have the power to review the Government's charging decisions because nothing suggests that it was improper or violated the United States Constitution. *Wayte v. United States*, 470 U.S. 598, 607 (1985) ("This broad discretion rests largely on the recognition that the decision to prosecute is particularly ill-suited to judicial review."). Since Petitioner's charges were not improper, the Court does not find this argument sufficient to warrant a sentence reduction. Therefore, Former Attorney General Garland's memo is not an extraordinary and compelling reason to warrant compassionate release.

**v. *Disparity Among Co-Defendants***

Petitioner argues that his co-defendants received shorter sentences, which creates an unwarranted sentencing disparity. Pet'r's Mot. at 15. The Government counters that the disparity was warranted given the significant role Petitioner maintained throughout the drug trafficking conspiracy. Resp. Opp. at 9.

Section 3553(a) instructs courts to consider a variety of bases when imposing a sentence, including "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). The Fourth Circuit, along with other circuits, "has recognized that § 3553(a)(6) is aimed at eliminating national sentencing disparities, not disparities between codefendants." *United States v. Lattimore*, 454 F. App'x 165, 167 (4th Cir. 2011).

It is within the Court's discretion to fashion a sentence that is "sufficient, but not greater than necessary." At the time of sentencing, the Court believed, and still believes, a 372-month sentence is sufficient. Petitioner was involved in a major international drug-trafficking conspiracy,

moving drugs between Panama and the United States. PSR ¶ 66. Petitioner was the organizer or leader of the offense for at least two years. *Id.* Petitioner also has an extensive criminal history, placing him in category III of the criminal history category score. *Id.* 118. These factors alone warranted the disparity that Petitioner seeks to challenge. Even if § 3553(a)(6) applied to the co-defendants in this case, by the statute's own terms, it only applies where co-defendants have "similar records [and] who have been found guilty of similar conduct." Here, none of the co-defendant's roles rose to the level of Petitioner's and is easily distinguishable for the Court. Accordingly, Petitioner has not established that his sentence is unreasonable. Therefore, Petitioner's claim of a disparity among co-defendants is insufficient to warrant compassionate release.

**vi. Rehabilitation**

Petitioner argues that his rehabilitation efforts support compassionate release. Petitioner asserts that he has maintained a clear disciplinary record except for three misconduct reports and completed several educational and vocational courses. Pet'r's Mot. at 18. While the Court commends Petitioner's rehabilitation efforts, his rehabilitation efforts are not extraordinary and compelling to earn a sentence reduction. *See* U.S.S.G. § 1B1.13(d); *United States v. Peoples*, 41 F.4th 837, 842 (7th Cir. 2022) ("rehabilitation 'cannot serve as a stand-alone reason' for compassionate release."). Thus, Petitioner has not established his rehabilitation efforts to justify compassionate release.

**vii. Section 3553(a) Factors**

Even if Petitioner demonstrated an extraordinary and compelling reason for compassionate release, the § 3553(a) factors do not weigh in Petitioner's favor for a sentence reduction. Petitioner instructed others to traffic drugs from Panama to the United States, inflicting harm on the Eastern

District of Virginia community. PSR ¶ 66. While in the United States, Petitioner traveled between New York and Virginia “to facilitate the importation and distribution of narcotics.” *Id.* Thus, Petitioner’s offense conduct shows a strong need for the sentence “to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense.” 18 U.S.C. § 3553(a)(2)(A).

Although Petitioner has medical concerns to support his compassionate release request, Pet’r’s Mot. at 25–26, the BOP classifies Petitioner as a Care 2 (stable, chronic care) and Care 1 (mental health), which suggests that the BOP can adequately manage Petitioner’s health needs. Resp. Opp. Ex. A.

The Court notes that Petitioner raised that the drug quantities in the PSR are incorrect. Pet’r’s Mot. at 20–24. A § 3582 motion is not the proper vehicle to revisit an alleged mistake in the PSR that determined the outcome in the original sentencing. *United States v. Tennille*, 365 F. App’x 613, 615 (6th Cir. 2010) (“[A] § [3582] motion is not the proper means of relitigating issues that were decided in the original sentencing.”). Instead, the proper vehicle for Petitioner to raise this challenge would have been on direct appeal. Under the Federal Rule of Appellate Procedure 4(b)(1), a defendant must file a notice of appeal within 14 days after the entry of the judgment. Petitioner did not file a direct appeal with the Court by August 31, 2007, which would have been 14 days after entry of the judgment. *See* Docket Sheet. However, on August 7, 2008, Petitioner did file a § 2255 petition, raising this exact issue, which the Court subsequently denied. ECF Nos. 171, 188. On April 24, 2009, the Fourth Circuit dismissed Petitioner’s appeal. ECF No. 213. Again, as the Court stated above, Petitioner cannot use a § 3582 petition to relitigate issues that the Court and the Fourth Circuit already decided. Further, a § 3582 motion is not the proper vehicle to litigate

issues that could have been raised in a § 2255 petition. *See Kennedy*, 722 F.3d at 443. Nevertheless, Petitioner's argument about the drug quantities is inadequate for this Motion.

Also, Petitioner does not explain or elaborate how his release plan would provide a viable alternative to serving the remainder of his sentence and "protect the public from further crimes of the" Petitioner. *See* 18 U.S.C. § 3553(a)(2)(C). To date, Petitioner has served approximately 18 years of his 31-year sentence. The Court finds that the § 3553(a) factors do not support a sentence reduction. Therefore, Petitioner does not qualify for compassionate release.

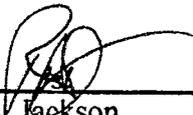
#### IV. CONCLUSION

For the foregoing reasons, Petitioner's Motion for Compassionate Release is **DENIED**.  
ECF No. 371.

The Clerk is **DIRECTED** to send a copy of this Order to the Petitioner, the United States Attorney, the United States Probation Office, the Federal Bureau of Prisons, and the United States Marshals Service.

**IT IS SO ORDERED.**

Newport News, Virginia  
April 7, 2025

  
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Raymond A. Jackson  
United States District Judge