

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

**IN THE  
SUPREME COURT OF THE UNITED STATES**

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MARTIN CHAVEZ-ZARATE, PETITIONER

vs.

UNITED STATES OF AMERICA, RESPONDENT

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

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**APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI**

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## **APPENDIX A**

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 28 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN CHAVEZ-ZARATE, AKA  
Martin Zarate-Chavez,

Defendant - Appellant.

No. 25-5742

D.C. No.

1:98-cr-05149-JLT-1

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Jennifer L. Thurston, District Judge, Presiding

Submitted January 22, 2026\*\*

Before: WARDLAW, CLIFTON, and R. NELSON, Circuit Judges.

Martin Chavez-Zarate appeals from the district court's order denying his second motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Chavez-Zarate contends that the district court procedurally erred by failing to address his argument that he is subject to a sentencing disparity under 18 U.S.C. § 3553(a)(6) because he is not a citizen and therefore is ineligible for programs that could reduce his sentence. The record reflects, however, that Chavez-Zarate did not make this argument in the district court; instead, he argued that his non-citizen status was an extraordinary and compelling reason for compassionate release. *See United States v. Keller*, 2 F.4th 1278, 1283-84 (9th Cir. 2021) (describing two-step analysis applicable to compassionate release motions). The court acknowledged that argument, as well as Chavez-Zarate's other asserted extraordinary and compelling circumstances, but denied the motion on the independent ground that the § 3553(a) factors did not support relief.

On this record, the district court did not err in failing to address whether Chavez-Zarate's non-citizen status resulted in an unwarranted sentencing disparity. *See United States v. Wright*, 46 F.4th 938, 950-52 (9th Cir. 2022). Moreover, the court adequately explained why the § 3553(a) factors did not support relief, *see id.* at 948-50, and did not abuse its discretion in reaching this conclusion, *see Keller*, 2 F.4th at 1284.

**AFFIRMED.**

## **APPENDIX B**



1 During trial, the Government presented evidence that from a period  
2 beginning in 1988 until his arrest in August 1998, the defendant was a  
3 significant distributor of cocaine, dealing in multiple kilograms with  
4 multiple individuals. The defendant closely associated with individuals  
5 linked to major drug cartels in both Colombia and Mexico. The  
6 defendant played a leadership role in securing over 350 kilograms of  
7 cocaine intended for distribution in Chicago, Illinois. When the 350  
8 kilograms of cocaine was seized by agents, the defendant's associates  
9 were arrested, including an individual who had in his possession early  
10 \$198,000. Shortly after the seizure of the cocaine, the defendant fled the  
11 United States and was not apprehended until approximately nine months  
12 later. According to Government experts, the 350 kilograms of cocaine  
13 seized had a "street value" of \$43,000,000 and a "wholesale" value of  
14 \$8,000,000. [¶] During the conspiracy, the defendant also purchased a  
15 home in Reedley, California, valued at approximately \$200,000 with  
16 profits from his lucrative drug trafficking business. This home is the  
17 subject of the money laundering counts, and the Government has sought  
18 to recover the home in a separate civil action.

11 (PSR, Sealed Doc. 401, ¶¶ 74-75.)

12 The Drug Enforcement Administration reported that the arrests and convictions of Defendant  
13 and his two codefendants "were the result of an extensive wiretap operation, known as Operation  
14 Casablanca, the largest, and most comprehensive drug/money laundering investigation in the history  
15 of United States law enforcement. During Operation Casablanca, authorities seized \$100,000,000 from  
16 14 banks and arrested numerous individuals for laundering money for the Cali drug cartel in Columbia  
17 [sic] and the Juarez cartel in Mexico." (PSR ¶ 4.)

18 At the time of Defendant's sentencing, 350 kilograms of cocaine resulted in a base offense  
19 level of 38 pursuant to U.S.S.G. § 2D1.1(c)(1). (PSR ¶ 33.) The PSR recommended a four-level  
20 upward adjustment for Defendant's aggravating supervisory role in the offense, resulting in a total  
21 recommended offense level of 42. (PSR ¶¶ 35-41.) Defendant was assigned 1 criminal history point  
22 based on a prior conviction and 2 status points under the prior version of U.S.S.G. § 4A1.1(d), for a  
23 total criminal history score of 3. (PSR ¶¶ 43-50.) This placed him in criminal history category II,  
24 which, combined with his total offense level, resulted in a Guidelines sentencing range of 360 months  
25 to life. (PSR ¶¶ 50, 69.) The PSR recommended that "[i]n view of the extraordinary quantity of drugs  
26 seized, as well as the defendant's role as a major cocaine distributor in North America (with ties to  
27 traffickers in Mexico and South America)," Defendant be sentenced to life imprisonment. (PSR ¶ 76.)

28 At sentencing, Judge Wanger adopted the factual findings and guideline application in the

1 PSR. (Doc. 184 at 7.) Defendant was sentenced to a term of 20 years on each of the four money  
2 laundering counts, and a term of life on the conspiracy count, all to be served concurrently, for a total  
3 term of life in custody. (*Id.* at 2.) The Ninth Circuit affirmed Defendant’s conviction and sentence on  
4 appeal. *United States v. Chavez-Zarate*, 45 F. App’x 805, 806 (9th Cir. 2002).

5 In June 2017, Defendant moved for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2)  
6 and Amendment 782 to the U.S. Sentencing Guidelines, which revised the Drug Quantity Table in  
7 § 2D1.1 and reduced by two levels the offense level applicable to Defendant’s drug trafficking  
8 conviction. (Doc. 320.) The parties did not dispute that under Amendment 782, which applied  
9 retroactively, Defendant’s base offense level would have been 36, rather than 38, which resulted in a  
10 total offense level of 40 after the four-point aggravating role enhancement. (Doc. 326 at 4-5.) With a  
11 criminal history category II, this reduced Defendant’s Guidelines range to between 324 and 405  
12 months. (*Id.* at 5.)

13 After reviewing and considering “Defendant’s crime, the original PSR, the § 3553(a) factors,  
14 public safety considerations, and Defendant’s post-sentencing conduct,” Judge O’Neill found that a  
15 reduction was warranted, albeit not to the extent Defendant sought. (*See* Doc. 326 at 6.) The court  
16 explained that “[t]he sentencing judge presided over the trial, heard testimony, and found a sentence at  
17 the high end of the range to be appropriate. This Court will not second-guess that judgment. A  
18 sentence at the high end of the newly reduced range is likewise appropriate, and the Court accordingly  
19 reduces the sentence to 405 months’ imprisonment.” (*Id.*)

20 In January 2020, Defendant filed a motion for sentence reduction under 18 U.S.C.  
21 § 3582(c)(1)(A), based on his medical circumstances and the risks presented by the COVID-19  
22 pandemic. (*See* Docs. 333, 342.) Judge Drozd concluded that although Defendant had demonstrated  
23 extraordinary and compelling reasons for a sentence reduction, the § 3553 factors did not support his  
24 release. (Doc. 352 at 12-14.) The Ninth Circuit affirmed. (Doc. 356.)

25 Defendant is currently serving his sentence at the Federal Correctional Institution in Thomson,  
26 Illinois, with a projected release date of August 28, 2026. *Find an inmate*, FEDERAL BUREAU OF  
27 PRISONS, <https://www.bop.gov/inmateloc/> (last visited August 12, 2025).

28 ///

1 **II. Sentence Reductions under 18 U.S.C. § 3582(c)(1)(A)**

2 **A. Legal Standard**

3 A court generally “may not modify a term of imprisonment once it has been imposed.” 18  
4 U.S.C. § 3582(c); *see also Dillon v. United States*, 560 U.S. 817, 824 (2010) (“[A] judgment of  
5 conviction that includes [a sentence of imprisonment] constitutes a final judgment’ and may not be  
6 modified by a district court except in limited circumstances.”). Those limited circumstances include  
7 compassionate release in extraordinary cases. *See United States v. Holden*, 452 F. Supp. 3d 964, 968  
8 (D. Or. 2020). Under the First Step Act of 2018, a defendant, or the Director of the Bureau of Prisons  
9 on the defendant’s behalf, may move for a sentence reduction in the district court. 18 U.S.C.  
10 § 3582(c)(1)(A). Upon such motion,

11 district courts may reduce [a defendant’s] term of imprisonment if four  
12 conditions are met: (1) the defendant exhausted administrative remedies;  
13 (2) “extraordinary and compelling reasons” warrant a sentence  
14 reduction; (3) a sentence reduction is “consistent with applicable policy  
statements” issued by the U.S. Sentencing Commission; and (4) the  
district court considered the factors set forth in 18 U.S.C. § 3553(a).

15 *United States v. Chen*, 48 F.4th 1092, 1094-95 (9th Cir. 2022). “Although a district court must  
16 conclude that a defendant satisfies all three predicates before granting a motion for compassionate  
17 release, it may deny compassionate release if a defendant fails to satisfy any of these grounds.” *United*  
18 *States v. Wright*, 46 F.4th 938, 945 (9th Cir. 2022) (citing *United States v. Keller*, 2 F.4th 1278, 1284  
19 (9th Cir. 2021)). Finally, the defendant bears the burden of “establish[ing] his eligibility for  
20 compassionate release.” *Wright*, 46 F.4th at 951.

21 **B. Administrative Exhaustion**

22 Section 3582(c) permits a defendant to apply to a federal district court for a sentence  
23 modification only “after the defendant has fully exhausted all administrative rights to appeal a failure  
24 of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the  
25 receipt of such a request by the warden of the defendant’s facility, whichever is earlier[.]” 18 U.S.C.  
26 § 3582(c)(1)(A).<sup>1</sup> Defendant submitted his administrative request for compassionate release to the  
27

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<sup>1</sup> If the BOP denies a defendant’s request within 30 days of receipt of such a request, to exhaust his

1 warden of his BOP facility on February 20, 2023. (Doc. 369 at 2, 34-36.) Because more than 30 days  
 2 have passed since service of his request, Defendant asserts he has exhausted his administrative  
 3 remedies. (*See id.*; *see also* Doc. 369 at 2.) The government concedes that Defendant has satisfied the  
 4 exhaustion requirement under § 3582(c)(1)(A). (Doc. 379 at 2.)

### 5 C. Extraordinary and Compelling Reasons

6 The U.S. Sentencing Commission has issued a policy statement outlining the circumstances  
 7 under which “extraordinary and compelling reasons” exist to reduce a defendant’s sentence under  
 8 § 3582(c)(1)(A), including the defendant’s medical circumstances, age and other related factors,  
 9 family circumstances, victimization, unusually long sentence, or “other reasons.” U.S. Sent’g  
 10 Guidelines Manual (U.S.S.G.) §§ 1B1.13(b)(1)-(6) (U.S. Sent’g Comm’n 2023). A defendant must  
 11 show, and courts must consider, “extraordinary and compelling reasons” according to the current  
 12 version of § 1B1.13. *See United States v. Arcila*, 716 F. Supp. 3d 1052, 1055 (D. Or. 2024),  
 13 *reconsideration denied*, 2024 WL 2048643 (D. Or. May 6, 2024); *see also United States v. Neal*, 2024  
 14 WL 1886476, at \*2 n.2 (E.D. Cal. Apr. 30, 2024).<sup>2</sup>

15 Defendant claims that his combined circumstances present extraordinary and compelling  
 16 reasons to grant his motion for compassionate release.<sup>3</sup> However, because the Court finds that the 18

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17  
 18 administrative remedies, the defendant must appeal that denial to the BOP’s “Regional Director within 20  
 19 calendar days of the date the Warden signed the response.” 28 C.F.R. § 542.15(a). If the Regional Director  
 20 denies the defendant’s administrative appeal, the defendant must appeal again to the BOP’s “General Counsel  
 21 within 30 calendar days of the date the Regional Director signed.” *Id.* “Appeal to the General Counsel is the  
 22 final administrative appeal.” *Id.* When the final administrative appeal is resolved, the defendant has “fully  
 23 exhausted all administrative rights.” *See* 18 U.S.C. § 3582(c)(1)(A).

24 <sup>2</sup> Prior to the November 2023 amendments, the Ninth Circuit held that “[t]he Sentencing Commission’s  
 25 statements in U.S.S.G. § 1B1.13 may inform a district court’s discretion for § 3582(c)(1)(A) motions filed by a  
 26 defendant, but they are not binding.” *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021). However, the  
 27 Ninth Circuit recently held that in 2023, “having regained a quorum, the Commission revised § 1B1.13 to  
 28 govern motions by a defendant.” *United States v. Bryant*, --- F.4th ---, 2025 WL 2026172, at \*2 (9th Cir. July  
 21, 2025) (citing Notice, Sentencing Guidelines for United States Courts, 88 Fed. Reg. 28,254, 28,256 (May 3,  
 2023)). “Now, courts are ‘bound by’ § 1B1.13 in deciding all compassionate release motions under  
 § 3582(c)(1)(A).” *Id.* (citing *Chen*, 48 F.4th at 1098; *Concepcion v. United States*, 597 U.S. 481, 495 (2022)).  
 The Court clarified that “*Aruda* has therefore been superseded to the extent that it sets out a different rule for  
 motions filed by defendants after the effective date of the 2023 revisions to § 1B1.13.” *Bryant*, 2025 WL  
 2026172, at \*2 n.1.

<sup>3</sup> For example, he argues that due to his noncitizen status, he is ineligible for certain benefits under the FSA,  
 such as time credits, participation in the Residential Drug Abuse Program, residential reentry center placement,

1 U.S.C. § 3553(a) sentencing factors weigh against Defendant’s release, as discussed below, the Court  
 2 need not decide whether he satisfies the “extraordinary and compelling” requirement under 18 U.S.C.  
 3 § 3582(c)(1)(A)(i). *Wright*, 46 F.4th at 945.<sup>4</sup>

4 **D. 18 U.S.C. § 3553 Sentencing Factors**

5 The sentencing factors enumerated in 18 U.S.C. § 3553(a) are: “(1) the nature and  
 6 circumstances of the offense and the history and characteristics of the defendant; (2) the need for the  
 7 sentence imposed ... to reflect the seriousness of the offense, to promote respect for the law, and to  
 8 provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect  
 9 the public from further crimes of the defendant; [and] to provide the defendant with needed  
 10 educational or vocational training, medical care, or other correctional treatment in the most effective  
 11 manner; (3) the kinds of sentences available; (4) the kinds of sentence and the sentencing range  
 12 established for ... the applicable category of offense committed by the applicable category of  
 13 defendant as set forth in the guidelines; ... (5) any pertinent policy statement ... issued by the  
 14 Sentencing Commission; ... (6) the need to avoid unwarranted sentence disparities among defendants  
 15

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16 and home confinement, all of which would lead to earlier release from BOP custody or earlier placement in pre-  
 17 release custody. (*See* Doc. 369 at 7-12; Doc. 378 at 6-7.) He “invokes Equal Protection constitutional rights,  
 18 since he may not be treated differently than other individuals similarly situated.” (Doc. 369 at 27.) He also  
 19 argues that his 405-month sentence, despite being reduced from a life sentence to the low-end of the amended  
 20 Guidelines range in 2018, is “excessive” and “derives from a manifest injustice” considering his age,  
 21 rehabilitative efforts, amount of time served, and the fact that he now accepts responsibility for his actions. (*Id.*  
 22 at 3, 5-6.) Finally, Defendant claims that his medical conditions “add weight towards obtaining mercy.” (*Id.* at  
 23 29.)

24 <sup>4</sup> The Court observes that in ruling on Defendant’s motion for compassionate release in 2020, Judge Drozd  
 25 concluded that Defendant had demonstrated extraordinary and compelling reasons based on his age under the  
 26 prior U.S.S.G. § 1B1.13. *Compare* U.S.S.G. § 1B1.13, cmt. n.1(B) (2018), *with* U.S.S.G. § 1B1.13(b)(2)  
 27 (2023). The parties did not dispute that Defendant was “at least 65 years old” and had “served at least 10 years  
 28 ... of his ... term of imprisonment.” U.S.S.G. §§ 1B1.13, cmt. n.1(B)(i), (iii) (2018). The court was also  
 persuaded that Defendant had demonstrated the third and final element; that he was “suffering from ‘a serious  
 deterioration in physical ... health because of the aging process’ due to his coronary atherosclerosis, which also  
 places him at greater risk of becoming severely ill if he were to contract the COVID-19 virus.” (Doc. 352 at 12-  
 13, quoting § 1B1.13, cmt. n.1(B)(ii).) Judge Drozd noted that “while it may have been a close call as to  
 whether [D]efendant ... could demonstrate ‘extraordinary and compelling reasons’ absent the risks to his health  
 posed by the COVID-19 pandemic, [D]efendant’s coronary artery disease when considered along with the risk  
 to him associated with COVID-19, tip the scales in his favor on this point.” (*Id.* at 13.) For purposes of this  
 motion, the Court assumes, without deciding, that Defendant’s further deterioration in health over the last 5  
 years, despite the end of the COVID-19 pandemic, likewise amounts to extraordinary and compelling reasons,  
 even if it may be a “close call.”

1 with similar records who have been found guilty of similar conduct; and (7) the need to provide  
2 restitution to any victims of the offense.” Defendant asserts that while there is “[n]o doubt” that the  
3 nature and circumstances of his offense are serious, they do not justify a 405-month sentence, and  
4 “[n]either do any of the other § 3553 factors.” (Doc. 369 at 23.) The Court concludes otherwise.

5 As Judge Drozd explained when denying Defendant’s previous motion for compassionate  
6 release, “it is not an exaggeration to state that defendant’s prosecution in this case was one of the most  
7 serious drug trafficking offenses prosecuted in this district at the time. Indeed, defendant Chavez-  
8 Zarate’s arrest and conviction was recognized as being ‘the result of an extensive wiretap operation,  
9 known as Operation Casablanca, *the largest and most comprehensive drug/money laundering*  
10 *investigation in the history of United States law enforcement*’ according to the [DEA].” (Doc. 352 at  
11 14, quoting PSR ¶ 4.) Federal law enforcement authorities seized \$100 million from 14 financial  
12 institutions associated with major drug cartels in Colombia and Mexico because of that Operation.  
13 (PSR ¶ 4.)

14 The evidence at trial indicated that Defendant “frequently communicated with an individual  
15 who was known to be ‘Mexico’s number one [drug] trafficker of cocaine.’” (Doc. 352 at 15, citing  
16 PSR ¶ 4.) Defendant himself trafficked cocaine in large quantities from at least as early as 1988 until  
17 he fled the United States in 1997. (*Id.*, citing PSR ¶ 5.) The Chicago transaction for which he is  
18 serving his current term of imprisonment involved over 350 kilograms of cocaine worth approximately  
19 \$43 million in 1997. (PSR ¶ 74.) The government also presented evidence that Defendant had been  
20 involved in the shipment of firearms (pistols) to narcotics traffickers in Mexico, who used them to  
21 assassinate rival traffickers. (Doc. 352 at 15, citing Doc. 339 at 3.) At the time of the offense,  
22 Defendant was on probation in connection with a prior conviction for aggravated possession of 400  
23 pounds of marijuana. (PSR ¶¶ 2, 43-45, 49.) He received a four-level enhancement for his leadership  
24 role in the conspiracy. (PSR ¶¶ 35-36.)

25 In imposing the maximum sentence of life, Judge Wanger found that the evidence had “more  
26 than preponderated that Mr. Chavez-Zarate is a major narcotics trafficker between here and Mexico.”  
27 (Doc. 403 at 63, Sent. Tr. at 47:14-17.) The court was “convinced that the wiretaps in this case showed  
28 major, major transactions being talked about” by Defendant and that the large quantity of “very pure

1 cocaine” involved in the Chicago seizure showed his “major, major involvement.” (*Id.* at 47:20-22,  
2 48:12-14.) “[I]n light of the continued danger to the community and the involvement that Mr. Chavez  
3 has had,” the court concluded that the probation officer’s recommendation of a life sentence was “the  
4 correct one.” (*Id.* at 48:15-18.)

5 Finally, as Judge Drozd’s denial order also noted, when Defendant’s sentence was reduced in  
6 2018, Judge O’Neill “applied the § 3553(a) sentencing factors and concluded that a sentence at the  
7 revised high-end of the guideline range (accounting for the Drug Minus Two amendment) was still  
8 appropriate in light of defendant’s underlying criminal conduct.” (Doc. 352 at 16, citing Doc. 326 at  
9 6.)

10 In noting this, the Court acknowledges that Defendant is 71 years old, and his physical health  
11 is declining. He has a low risk of recidivism, a clean disciplinary record, and has displayed exceptional  
12 rehabilitation while in BOP custody. He has served approximately 323 months of his 405-month  
13 sentence to date. However, the Court agrees with the government that these factors, when coupled  
14 with the seriousness of Defendant’s offense, are insufficient to justify the reduced sentence Defendant  
15 seeks. Both Judge Wanger and Judge O’Neill previously considered the nature and characteristics of  
16 Defendant’s offense, along with the remaining relevant § 3553(a) factors, in determining that the  
17 sentence imposed was reasonable and sufficient, but not greater than necessary, to comply with the  
18 purposes stated at 18 U.S.C. § 3553(a)(2).

19 In sum, any further reduction of Defendant’s sentence would not reflect the seriousness of his  
20 offense, promote respect for the law, provide just punishment, or afford adequate deterrence to  
21 criminal conduct. *See* 18 U.S.C. §§ 3553(a)(2)(A)-(B). Therefore, Defendant’s motion pursuant to 18  
22 U.S.C. § 3582(c)(1)(A) is denied.

23 **III. Sentence Reductions under 18 U.S.C. § 3582(c)(2)**

24 **A. Legal Standard**

25 The limited circumstances in which a court may modify a sentence also include compassionate  
26 release “in the case of a defendant who has been sentenced to a term of imprisonment based on a  
27 sentencing range that has subsequently been lowered by the Sentencing Commission[.]” 18 U.S.C.  
28 § 3582(c)(2). In such a case, “the court may reduce the term of imprisonment, after considering the

1 factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is  
2 consistent with applicable policy statements issued by the Sentencing Commission.” *Id.* The relevant  
3 policy statement applicable to § 3582(c)(2) provides:

4 A reduction in the defendant’s term of imprisonment is not consistent  
5 with this policy statement and therefore is not authorized under 18  
U.S.C. § 3582(c)(2) if—

- 6 (A) none of the amendments listed in subsection (d) is applicable  
to the defendant; or  
7 (B) an amendment listed in subsection (d) does not have the  
effect of lowering the defendant’s applicable guideline  
8 range.

9 U.S.S.G. § 1B1.10(a)(2).

10 As such, district courts conduct a “two-step inquiry” to determine whether to grant relief under  
11 18 U.S.C. § 3582(c)(2). *Dillon*, 560 U.S. at 826. First, the court “determine[s] the amended guideline  
12 range that would have been applicable to the defendant’ had the relevant amendment been in effect at  
13 the time of the initial sentencing.” *Id.* at 827 (quoting U.S.S.G. § 1B1.10(b)(1)). If a defendant is  
14 found “eligible” under the first step, the court then considers the applicable sentencing factors  
15 enumerated in 18 U.S.C. § 3553(a) to determine whether, in its discretion, “the reduction authorized  
16 by reference to the policies relevant at step one is warranted in whole or in part under the particular  
17 circumstances of the case.” *Id.*

18 **B. Eligibility under Amendment 821, Part A (“Status Points” Provision)**

19 Effective November 1, 2023, the Sentencing Commission amended two provisions of the  
20 Sentencing Guidelines—“parts A and B, subpart 1”—which applied retroactively. *See* U.S.S.G. §  
21 1B1.10(d) (2023) (“Amendment 821”); *see also* U.S.S.G. § 1B1.10(e)(2). Part A reduced the number  
22 of “status points” assigned to certain defendants who committed their offense while under a criminal  
23 justice sentence, thereby lowering the impact on the defendant’s criminal history.

24 Prior to Amendment 821, a defendant received 2 additional criminal history “status” points if  
25 he or she “committed any part of the instant offense (*i.e.*, any relevant conduct) while under any  
26 criminal justice sentence.” *See* U.S.S.G. § 4A1.1(d) (prior to November 1, 2023). Under the amended  
27 provision, which now appears in § 4A1.1(e), (1) a defendant who presents 7 or more criminal history  
28 points now receives 1 status point, instead of 2; and (2) a defendant who presents 6 or fewer criminal

1 history points receives no status points. U.S.S.G. § 4A1.1(e) (2023).

2 The parties do not dispute that Defendant is eligible for a second retroactive sentence reduction  
3 under § 4A1.1(e). When Defendant was sentenced on March 20, 2000, he was assigned two status  
4 points. (See PSR ¶¶ 48-50.) Under Amendment 821, he would receive none. One criminal history  
5 point would place him in criminal history category I, rather than II, which, coupled with an offense  
6 level of 40, (see Doc. 326 at 5), would result in a lower Guidelines sentencing range of 292 to 365  
7 months. See U.S.S.G. Ch. 5, Pt. A (2023). Notwithstanding, for the reasons discussed *supra*, the Court  
8 concludes that further reduction of Defendant's sentence is not warranted according to the applicable §  
9 3553(a) factors. *Dillon*, 560 U.S. at 827. Accordingly, Defendant's motion under § 3582(c)(2) is also  
10 denied.

11 **IV. Conclusion**

12 Based upon the foregoing, Defendant's motions for a sentence reduction pursuant to 18 U.S.C.  
13 §§ 3582(c)(1)(A) and (c)(2) (Docs. 362, 369, 378, 395), are **DENIED**.

14  
15 IT IS SO ORDERED.

16 Dated: August 13, 2025

  
UNITED STATES DISTRICT JUDGE

## **APPENDIX C**

FILED

MAR 22 8 35 AM '00

CLERK U.S. DIST. COURT  
EASTERN DIST. OF CALIF.  
*[Signature]*

# United States District Court Eastern District of California

UNITED STATES OF AMERICA  
v.  
MARTIN CHAVEZ-ZARATE

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)  
Case Number: **1:98CR05149-001**

Kirt Hopson, 9844 S Paramount Blvd,  
Downey, CA 90240  
Defendant's Attorney

### THE DEFENDANT:

- pleaded guilty to count(s): \_\_\_\_.
  - pleaded nolo contendere to counts(s) \_\_\_\_ which was accepted by the court.
  - was found guilty on count(s) One through Five of the Indictment after a plea of not guilty.
- Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 841(a)(1) and (846)	Conspiracy to Distribute and to Possess With the Intent to Distribute Cocaine with Enhanced Penalties	12/07/1997	One
18 USC 1956(a)(1)(B)(i) and 2	Money Laundering and Aiding and Abetting	12/07/1997	Two thru Five

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on counts(s) \_\_\_\_ and is discharged as to such count(s).
- Count(s) \_\_\_\_ (is)(are) dismissed on the motion of the United States.
- Indictment is to be dismissed by District Court on motion of the United States.
- Appeal rights given.  Appeal rights waived.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: **569-06-0583**

Defendant's Date of Birth: **11/11/53**

Defendant's USM No.: **58443-097**

Defendant's Residence Address:

Defendant's Mailing Address:

March 20, 2000  
Date of Imposition of Judgment

*[Signature]*  
Signature of Judicial Officer

**OLIVER W. WANGER**, United States District Judge  
Name & Title of Judicial Officer

3-21-00  
Date

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CASE NUMBER: 1:98CR05149-001  
DEFENDANT: MARTIN CHAVEZ-ZARATE

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of Life.

On each of Counts 2,3,4, 5 a term of 20 years, and a term of Life on Count 1, all to be served concurrently for a total term of Life.

The court makes the following recommendations to the Bureau of Prisons:  
The Court recommends that the defendant be incarcerated in a California facility, but only insofar at this accords with security classification and space availability.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district.  
 at \_\_\_ on \_\_\_\_.  
 as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:  
 before \_ on \_\_\_\_.  
 as notified by the United States Marshal.  
 as notified by the Probation or Pretrial Services Officer.  
If no such institution has been designated, to the United States Marshal for this district.

### RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

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DEFENDANT: MARTIN CHAVEZ-ZARATE.

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 120 months.

(Unsupervised, if deported)

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

- The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.
- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)
- The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check if applicable).

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit home or her at an time a home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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DEFENDANT:

MARTIN CHAVEZ-ZARATE

## SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall submit to the search of his person, property, home, and vehicle by a United States Probation Officer, or any other authorized person under the immediate and personal supervision of the probation officer, without a search warrant. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
2. The defendant shall provide the probation officer with access to any requested financial information.
3. As directed by the probation officer, the defendant shall participate in a correctional treatment program to obtain assistance for drug or alcohol abuse.
4. The defendant shall not possess or have access to any paging device or cellular phone without the advance permission of the probation officer. The defendant shall provide all billing records for such devices, whether used for business or personal, to the probation officer upon request.
5. Pursuant to 18 USC 3583(d)(3), upon completion of the term of imprisonment, it is ordered the defendant be immediately surrendered to a duly authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Naturalization Act. If ordered deported, during the term of supervised release, the defendant shall remain outside the United States and shall not re-enter the United States without the consent of the Attorney General of the United States.

Upon any re-entry into the United States, the defendant shall report in person to the United States Probation Office in the Eastern District of California within 72 hours.

6. As directed by the probation officer, the defendant shall participate in a co-payment plan for treatment or testing and shall make payment directly to the vendor under contract with the United States Probation Office of \$5 per month.
7. The defendant shall register, as required in the jurisdiction in which he resides, as a drug offender.

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### CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 300.00	\$	\$

[ ] If applicable, restitution amount ordered pursuant to plea agreement ..... \$ \_\_\_\_\_

### FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ \_\_\_\_.

The defendant shall pay interest on any fine of more than \$2500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g).

[ ] The court determined that the defendant does not have the ability to pay interest and it is ordered that:

- [ ] The interest requirement is waived.
- [ ] The interest requirement is modified as follows:

### RESTITUTION

[ ] The determination of restitution is deferred in a case brought under Chapters 109A, 100, 110A and 113A of Title 18 for offenses committed on or after 09/13/1994, until up to 60 days. An amended Judgment in a Criminal Case will be entered after such determination.

[ ] The court determined that the defendant does not have the ability to pay interest and it is ordered that:

- [ ] The interest requirement is waived.
- [ ] The interest requirement is modified as follows:

[ ] The defendant shall make restitution to the following payees through the U.S. District Court, in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order of percentage payment column below.

<u>Name of Payee</u>	<u>**Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or % of Pymnt</u>
	<u>TOTALS:</u>	\$ _____	\$ _____

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994.

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## SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A  immediately; or
- B  \$ \_ immediately, balance due (in accordance with C, D, or E); or
- C  not later than \_ ; or
- D  in installments to commence \_ day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E  in \_ (e.g. equal, weekly, monthly, quarterly) installments of \$ \_ over a period of \_ year(s) to commence \_ day(s) after the date of this judgment.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall forfeit the defendant's interest in the following property to the United States:

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### STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

**OR**

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

**Guideline Range Determined by the Court:**

Total Offense Level: \_\_

Criminal History Category: \_\_

Imprisonment Range: \_\_ to \_\_ months

Supervised Release Range: \_\_ to \_\_ months

Fine Range: \$ \_\_ to \$ \_\_

Fine is waived or is below the guideline range, because of inability to pay.

Total Amount of Restitution: \$ \_\_

Full restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

Partial restitution is ordered for the following reason(s).

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

**OR**

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons(s):  
See page 2(a) of report - continued involvement in criminal behavior relative to narcotic trafficking

**OR**

The sentence departs from the guideline range:

upon motion of the government, as a result of defendant's substantial assistance.

for the following specific reason(s):

## **APPENDIX D**

UNITED STATES DISTRICT COURT

for the

Eastern District of California

United States of America

v.

MARTIN CHAVEZ-ZARATE

Date of Original Judgment: 3/20/2000

Date of Previous Amended Judgment:

(Use Date of Last Amended Judgment if Any)

) Case No: 1:98CR05149-001 LJO

) USM No: 58543-097

) Alexandra Negin, Assistant Federal Defender
Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of [X] the defendant [ ] the Director of the Bureau of Prisons [ ] the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

[ ] DENIED. [X] GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of LIFE months is reduced to 405 Months.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 03/20/2000 shall remain in effect.

IT IS SO ORDERED.

Order Date: 09/14/2018

/s/ Lawrence J. O'Neill
Judge's signature

Effective Date:

Honorable Lawrence J. O'Neill, District Court Judge