

ORIGINAL

No. 25-7170

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IN THE

SUPREME COURT OF THE UNITED STATES

DENNIS MICHAEL HOGAN — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DENNIS MICHAEL HOGAN
(Your Name) 20924-085

FCI Terminal Island, P.O. Box 3007
(Address)

San Pedro, CA 90733
(City, State, Zip Code)

NONE
(Phone Number)

QUESTIONS PRESENTED

1. Whether federal district court abuses its discretion under Concepcion v. United States, 597 U.S. S. Ct (2022), when it denies a motion for compassionate release/RIS under §3582(c)(1)(A) without addressing specific, non-frivolous factual arguments tied to the definitions of "extraordinary and compelling reasons" in U.S.S.G. §1B1.13 and the sentencing factors in 18 U.S.C. §3553(a)?
2. Whether a court violates the party-presentation principle reaffirmed in Concepcion when it denies a complex §3582(c)(1)(A) motion without ordering the Government to respond, and instead relies on its own untested assumptions?
3. Whether a denial of compassionate release/ RIS based on clearly erroneous factual findings such as stating that a defendant has a lengthy criminal history and drug use that do not exist in the record constitutes reversible abuse of discretion and a violation of due process?
4. Whether a court abuses its discretion by ignoring uncontroverted, professional medical evidence including medical records and sworn testimony from multiple licensed medical providers without explanation, even when the evidence satisfies the applicable definitions of "extraordinary and compelling reasons"?
5. When a district court compounds and amplifies its abuse of discretion to the point where the court wholly abandons its role as a neutral and detached fact finder, does this result, demand de novo review as required by the Fifth and Fourteenth Amendment's Due Process Clause?

LIST OF PARTIES

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

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

For cases from **federal courts**:

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 24, 2025.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

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(c) Modification of an imposed term of imprisonment. The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) [18 USCS § 3553(a)] to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction; or

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) [18 USCS § 3559(c)], for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g) [18 USCS § 3142];

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

§ 3553. Imposition of a sentence

(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) [18 USCS § 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) [18 USCS § 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.

§1B1.13. Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A) (Policy Statement)

- (a) IN GENERAL.—Upon motion of the Director of the Bureau of Prisons or the defendant pursuant to 18 U.S.C. § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable, the court determines that—
- (1) (A) extraordinary and compelling reasons warrant the reduction; or
(B) the defendant (i) is at least 70 years old; and (ii) has served at least 30 years in prison pursuant to a sentence imposed under 18 U.S.C. § 3559(c) for the offense or offenses for which the defendant is imprisoned;
 - (2) the defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g); and
 - (3) the reduction is consistent with this policy statement.
- (b) EXTRAORDINARY AND COMPELLING REASONS.—Extraordinary and compelling reasons exist under any of the following circumstances or a combination thereof:
- (1) Medical Circumstances of the Defendant.—
 - (A) The defendant is suffering from a terminal illness (*i.e.*, a serious and advanced illness with an end-of-life trajectory). A specific prognosis of life expectancy (*i.e.*, a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.
 - (B) The defendant is—
 - (i) suffering from a serious physical or medical condition,
 - (ii) suffering from a serious functional or cognitive impairment, or
 - (iii) experiencing deteriorating physical or mental health because of the aging process,that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which

he or she is not expected to recover.

- (C) The defendant is suffering from a medical condition that requires long-term or specialized medical care that is not being provided and without which the defendant is at risk of serious deterioration in health or death.
 - (D) The defendant presents the following circumstances—
 - (i) the defendant is housed at a correctional facility affected or at imminent risk of being affected by (I) an ongoing outbreak of infectious disease, or (II) an ongoing public health emergency declared by the appropriate federal, state, or local authority;
 - (ii) due to personal health risk factors and custodial status, the defendant is at increased risk of suffering severe medical complications or death as a result of exposure to the ongoing outbreak of infectious disease or the ongoing public health emergency described in clause (i); and
 - (iii) such risk cannot be adequately mitigated in a timely manner.
- (2) AGE OF THE DEFENDANT.—The defendant (A) is at least 65 years old; (B) is experiencing a serious deterioration in physical or mental health because of the aging process; and (C) has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less.
- (3) Family Circumstances of the Defendant.—
- (A) The death or incapacitation of the caregiver of the defendant's minor child or the defendant's child who is 18 years of age or older and incapable of self-care because of a mental or physical disability or a medical condition.
 - (B) The incapacitation of the defendant's spouse or registered partner when the defendant would be the only available caregiver for the spouse or registered partner.
 - (C) The incapacitation of the defendant's parent when the defendant would be the only available caregiver for the parent.
 - (D) The defendant establishes that circumstances similar to those listed in paragraphs (3)(A) through (3)(C) exist involving any other immediate family member or an individual whose relationship with the defendant is similar in kind to that of an immediate family member, when the defendant would be the only available caregiver for such family member or individual. For purposes of this provision, "*immediate family member*"

refers to any of the individuals listed in paragraphs (3)(A) through (3)(C) as well as a grandchild, grandparent, or sibling of the defendant.

(4) VICTIM OF ABUSE.—The defendant, while in custody serving the term of imprisonment sought to be reduced, was a victim of:

(A) sexual abuse involving a "sexual act," as defined in 18 U.S.C. § 2246(2) (including the conduct described in 18 U.S.C.

§ 2246(2)(D) regardless of the age of the victim); or

(B) physical abuse resulting in "serious bodily injury," as defined in the Commentary to §1B1.1 (Application Instructions);

that was committed by, or at the direction of, a correctional officer, an employee or contractor of the Bureau of Prisons, or any other individual who had custody or control over the defendant.

For purposes of this provision, the misconduct must be established by a conviction in a criminal case, a finding or admission of liability in a civil case, or a finding in an administrative proceeding, unless such proceedings are unduly delayed or the defendant is in imminent danger.

(5) OTHER REASONS.—The defendant presents any other circumstance or combination of circumstances that, when considered by themselves or together with any of the reasons described in paragraphs (1) through (4), are similar in gravity to those described in paragraphs (1) through (4).

(6) UNUSUALLY LONG SENTENCE.—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.

(c) LIMITATION ON CHANGES IN LAW.—Except as provided in subsection (b)(6), a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) shall not be considered for purposes of determining whether an extraordinary and compelling reason exists under this policy statement. However, if a defendant otherwise establishes that extraordinary and compelling reasons warrant a sentence reduction under this policy statement, a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) may be considered for purposes of determining the extent of any such

reduction.

- (d) REHABILITATION OF THE DEFENDANT.—Pursuant to 28 U.S.C. § 994(t), rehabilitation of the defendant is not, by itself, an extraordinary and compelling reason for purposes of this policy statement. However, rehabilitation of the defendant while serving the sentence may be considered in combination with other circumstances in determining whether and to what extent a reduction in the defendant's term of imprisonment is warranted.
- (e) FORESEEABILITY OF EXTRAORDINARY AND COMPELLING REASONS.—For purposes of this policy statement, an extraordinary and compelling reason need not have been unforeseen at the time of sentencing in order to warrant a reduction in the term of imprisonment. Therefore, the fact that an extraordinary and compelling reason reasonably could have been known or anticipated by the sentencing court does not preclude consideration for a reduction under this policy statement

STATEMENT OF THE CASE

Petitioner filed a motion for compassionate release under 18U.S.C. §3582(c)(1)(A), supported by detailed factual evidence and legal argument addressing the statutory requirements, the Sentencing Commission's policy statement in U.S.S.G. §1B1.13, and the sentencing factors set forth in 18 U.S.C. 3553(a).

The motion raised specific, non-frivolous facts showing extraordinary and compelling reason for relief and addressed the defendant's personal history, conduct, and lack of disqualifying criminal or drug history. These facts included medical records and sworn testimony from five licensed medical professionals exposing serious medical conditions and functional limitations along with several other non-frivolous facts supported by record and affidavits. Petitioner explained how, under USSG §1B1.13, these materials satisfied the applicable definitions of "extraordinary and compelling" reasons" and that the sentencing factors in 18 USC §3553(a) favored reduction.

Without ordering the Government to respond, violating principle of "party presentation", or addressing specific reasons presented the district court denied the motion. In its written decision, under §3553 factors the court stated that the defendant had a "lengthy criminal history" and engaged in "drug use" assertions that are unsupported by and directly contradicted by, the record.

The district court did not meaningfully address the arguments presented under § 1B1.13 or § 3553(a). In affirmation the court of appeals failed to correct the factual errors or requiring engagement with the medical and factual record.

REASONS FOR GRANTING THE PETITION

I. The decision Below Conflicts With This Courts Requirement of Reason, Record-Based Discretion

This Court has long held that judicial discretion is not unlimited. A court abuses its discretion when it fails to consider relevant factors or relies on clearly erroneous facts. See Koon v. United States, 518 U.S. 81, 100 (1996); Gall v. United States, 552 U.S. 38, 51 (2007). (Appendix G specifics)

In Concepcion V. United States, this Court reaffirmed that when Congress authorizes resentencing, district courts must consider non-frivolous arguments presented by the parties and exercise discretion through reasoned decision-making grounded in the record. Although a court is not required to grant relief, it may not ignore properly presented evidence or arguments. The decision below conflicts with these principles. The district court denied compassionate release/RIS without addressing specific factual arguments tied to U.S.S.G. §1B1.13 (see Appendix C for specifics) or meaningfully applying §3553(a) factors. (see Appendix F specifics) Instead, it relied on factual assertions that are demonstrably false. (see Appendix D specifics) Such a decision is not reasoned discretion; it is legal error.

This Court has repeatedly vacated judgments resting on materially false or unsupported facts. See Townsend v. Burke, 334 U.S. 736, 741 (1948) (due process violated when sentence is based on "assumptions concerning his criminal record which was materially untrue"); United States v. Tucker, 404 U.S. 443, 447 (1972) (resentencing required where court relied on invalid prior convictions). This Court has long held that sentencing based on materially untrue assumptions violates fundamental fairness. Townsend and Tucker A discretionary denial of compassionate release grounded on nonexistent facts conflicts with those decisions and with the record-based reasoning required by Concepcion.

The same principle applies here. A denial of liberty based on nonexistent

criminal history and drug use cannot stand.

II. The Decision Undermines the Party-Presentation Principle Central to the Adversarial System

Federal courts operate as neutral arbiters with an adversarial framework in which parties present the facts and arguments and the court decides the issues joined by the parties. This Court has emphasized that courts should not depart from that role. See Greenlaw v. U.S., 554 U.S. 237, 243-44 (2008) (courts are "passive instruments of government" that rely on party presentation); see also Concepcion, reaffirming that courts must consider the arguments the parties raise. Here, the district court denied a complex §3582(c)(1)(A) motion without ordering the Government to respond (see Appendix E specifics). By resolving disputed factual and legal issues without adversarial testing, the court substituted unilateral assumptions for party presentation. Here, the district court denied a complex §3582(c)(1)(A) motion without ordering any response from the Government. Without adversarial testing, the court adopted erroneous factual premises while failing to confront the detailed medical and factual submission before it.

That process directly produced factual errors and prevented correction of the record. Nothing in §3582(c)(1)(A) authorizes dispensing with adversarial procedure where contested facts are central to the decision. This Court's review is needed to reaffirm that discretionary sentencing decisions must remain anchored in the adversarial process.

III. Lower Courts Are Divided on the Scope of Required Consideration in Compassionate-Release Decisions

Courts of appeals have taken differing approaches to how thoroughly district courts must address evidence and arguments in §3582(c)(1)(A) cases. (see Appendix E specifics).

Some circuits require meaningful engagement with the defendant's principal arguments and record evidence. See, e.g., U.S. v Jones, 980 F.3d 1098,1113 (6th Cir. 2020) (courts must supply a reasoned basis showing it considered the parties arguments); U.S. v Aruda, 993 F .3d 797, 801 (9th Cir. 2021) (courts must considere §1B1.13 as persuasive guidance and conduct individualized review).

Other decisions affirm summary denials with minimal explanation or despite clear factual inaccuracies so long as the court references §3553(a) in general terms. See, e.g.,

U.S. v High, 997 f .3d 181, 187 91 (4th Cir. 2021)(upholding brief explanation); U.S. v Rucker, 27 F .4th 560, 563 (7th Cir. 2022) (similar approach)

However none of these failed to identify defendants individual situation. (see Appendix E exemplifying how appellate courts refer back to the district court's reasoning).

This divergence creates unequal treatment of similarly situated federal prisoners depending on geography. Only this Court can clarify that Concepcion requires consideration of non-frivolous arguments and accurate, record based fact-finding in every circuit.

IV. Ignoring Uncontroverted Medical Evidence Defeats Congress's Purpose in Authorizing Compassionate Release

Congress expanded compassionate release so the courts could evaluate extraordinary and compelling medical circumstances on an individualized basis. When multiple licensed medical professionals submit sworn statement and medical records showing qualifying conditons, a court must at a minimum demonstrate examination of this evidence by more than just a general statement stating the court has read all the information.

This Court has required sentencing judges to consider all non-frivolous

mitigation arguments. See Pepper v. U.S., 562 U.S. 476 490 93 (2011) (post-sentencing evidence must be considered at resentencing); Rita v. U.S. 551 U.S. 338, 356 (2007) (courts should address principle arguments).

A categorical refusal to examine or discuss professional medical testimony is incompatible with those decisions and with the individualized sentencing required by federal law. When such evidence meets the applicable definition of "extraordinary and compelling reasons," unexplained disregard is an abuse of discretion. (see Appendix C for case specifics)

V. Accurate and Fair Sentencing Is of Exceptional Importance to All Citizens of the United States

Liberty may not be curtailed based on factual error or unexplained disregard of material evidence. This Court has recognized that accuracy and fairness in sentencing are essential to the rule of law. See Molina-Martinez v United States, 578 U.S. 189, 200 (2016) (sentencing errors that affect outcomes undermine confidence in judicial proceedings). Because compassionate release directly concerns whether a person remains incarcerated despite serious medical conditions errors within this context affecting fundamental liberty interests erode public confidence in the federal judiciary. Uniform national standards are essential so that citizens are not subject to different levels of judicial scrutiny based solely on the circuit in which they were sentenced. Permitting denials based on ignored arguments, unexamined medical records, or plainly erroneous facts risks unequal and unreliable deprivation of liberty for citizens of the United States. Clear national standards are needed to ensure that discretionary decisions affecting fundamental liberty interests are accurate, reasoned, and consistent across all federal courts.

VI. When the district court sits as a neutral and detached fact finder, it is protecting a petitioner's Fifth and Fourteenth

Amendment right to due process. It is well settled that "due process" requires both "notice" and "fair hearing." A fair hearing requires that the district court carefully consider a petitioner's pleadings; examine each claim that the petitioner raises; and, fairly and adequately evaluate, and then adjudicate each claim. It seems axiomatic, that when a court deploys "boilerplate" analysis and subsequent orders, as opposed to an individualized examination of a petitioner's claims, the court is favoring speed, carelessness, and a "cookie-cutter" approach that simply cannot pass constitutional muster.

Here the district court's sloppy and cavalier approach, clearly evidenced by numerous factual errors and faulty assumptions, deprived the petitioner of both his Fifth and Fourteenth Amendment guarantees.

The appellate court's review of the district court's decision in this case, under abuse of discretion standard, simply compounds the injustice on the petitioner by failing to recognize the obvious fact that the district court wholly abandoned its role as a neutral and detached fact finder.

Therefore, this Court should examine the Petitioner's claims de novo; which, ironically, and as the term, de novo suggests, will, in reality- be the very first time the Petitioner's claims were constitutionally examined. Anything less, continues to offend both the Fifth and Fourteenth Amendments to the United States Constitution.

CONCLUSION

This case presents a recurring and important question about the limits of judicial discretion in compassionate-release/RIS proceedings. The decision below conflicts with this Court's precedents requiring reasoned, record based adjudication; departs drastically from the adversarial party-presentation principle; tolerates clearly erroneous factual findings; and ignores uncontroverted professional medical evidence.

The petition for writ of certiorari should be granted.

Respectfully Submitted,

 2/9/24

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