No. _____

IN THE

Supreme Court of the United States

TIMOTHY L. RICHARDS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Enacted in the Sentencing Reform Act of 1984, 18 U.S.C. § 3582(a) declares that "imprisonment is not an appropriate means of promoting correction and rehabilitation." In *Tapia v. United States*, this Court held that "the Sentencing Reform Act precludes federal courts from imposing or lengthening a prison term in order to promote a criminal defendant's rehabilitation." 564 U.S. 319, 321 (2011).

The Courts of Appeals are split 5 to 7 over how to apply that rule. *See United States v. Schonewolf*, 905 F.3d 683, 691 (3d Cir. 2018) (cataloguing the split as of 2018). Today the Sixth, Ninth, Tenth, Eleventh, and D.C. Circuits understand *Tapia* and § 3582(a) to prohibit any reliance on rehabilitation when imposing a prison sentence. Meanwhile the First, Second, Third, Fourth, Fifth, Seventh, and Eighth Circuits take the "intermediate position," *Esteras v. United States*, 606 U.S. 185, 190 n.1 (2025), that *Tapia* and § 3582(a) forbid only prison sentences based primarily on rehabilitation.

The question presented is whether any reliance on rehabilitation when imposing a prison term violates 18 U.S.C. § 3582(a).

PARTIES TO THE PROCEEDING

The parties to the proceeding below are Timothy Lee Richards and the United States of America. Neither party has a stock ticker symbol.

RELATED PROCEEDINGS

This petition seeks certiorari from the judgment of the United States Court of Appeals for the Seventh Circuit in *United States v. Richards*, 161 F.4th 490 (7th Cir. 2025). That appeal arose from a judgment of the United States District Court for the Northern District of Indiana revoking Timothy Richards's supervised release. *United States v. Richards*, No. 1:10-CR-06, Dkt. 303 (N.D. Ind. Feb. 11, 2025).

Richards previously appealed the district court's original criminal judgment. *United States v. Richards*, 741 F.3d 843 (7th Cir. 2014). The Seventh Circuit affirmed. *Id.* at 851. That appeal arose from the same cause number as this petition. *United States v. Richards*, No. 1:10-CR-06, Dkt. 200 (N.D. Ind. Dec. 5, 2012).

To counsel's knowledge, there are no other, related proceedings under Rule 14.1(b)(iii).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Timothy Lee Richards respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

DECISIONS BELOW

The Seventh Circuit affirmed Timothy Richards's revocation judgment in a published opinion, *United States v. Richards*, 161 F.4th 490 (7th Cir. 2025), which is attached to this Petition as Appendix A. The Seventh Circuit denied Richards's petition for rehearing and rehearing en banc in an unpublished order, *United States v. Richards*, No. 25-1357, App. Dkt. 41 (7th Cir. Feb. 4, 2026), which is attached to this Petition as Appendix B. The district court's sentencing transcript and judgment are unpublished, *see United States v. Richards*, No. 1:10-CR-06, Dkts. 303, 310 (N.D. Ind. Feb. 11, 2025), and are attached to this Petition as Appendices C and D, respectively.

JURISDICTION

The Seventh Circuit entered judgment on December 8, 2025. App. 1a. Richards timely sought rehearing and rehearing en banc, which the court denied on February 4, 2026. App. 8a. This Petition is filed within 90 days of February 4, 2026. S. Ct. R. 13.3. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

Title 18 U.S.C. § 3582(a) provides that:

> **(a) Factors to be considered in imposing a term of imprisonment.**--The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

INTRODUCTION

This case implicates a deeply entrenched, 5 to 7 circuit split over a purely legal question that affects every federal defendant at every sentencing proceeding: Whether 18 U.S.C. § 3582(a) draws a bright-line forbidding any reliance on rehabilitation when imposing a prison term, or, instead, loosely prohibits only *too much* reliance.

Text, context, and precedent all point in the same direction: any reliance on rehabilitation when imposing or lengthening a prison term is forbidden. But the Seventh Circuit blessed express reliance on rehabilitation as a reason for Timothy Richards's above-guideline prison term. *United States v. Richards*, 161 F.4th 490, 493 (7th Cir. 2025). Don't just take our word for it. Consider the sentencing court's very first reason for imposing an above-guideline, 36-month sentence: "*it provides the defendant with needed correctional treatment in the most effective manner*." App. 29a. That's the statutory language of rehabilitation, drawn almost verbatim from 18 U.S.C. § 3553(a)(2)(D), but it did not satisfy the Seventh Circuit's primary factor test. *Richards*, 161 F.4th at 493.

The decision below calcifies a rift among the circuits. *See Schonewolf*, 905 F.3d at 691 (describing the split). The Sixth, Ninth, Tenth, Eleventh, and D.C. Circuits read *Tapia* to prohibit any reliance on rehabilitation.[1] But the First, Second, Third, Fourth, Fifth, Seventh, and Eighth Circuits read *Tapia* to bar prison sentences based primarily on rehabilitation.[2] This split will not resolve itself; further percolation is unnecessary.

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[1] *United States v. Adams*, 873 F.3d 512, 521 (6th Cir. 2017); *United States v. Joseph*, 716 F.3d 1273, 1281 n.10 (9th Cir. 2013); *United States v. Thornton*, 846 F.3d 1110, 1116 (10th Cir. 2017); *United States v. Vandergrift*, 754 F.3d 1303, 1310 (11th Cir. 2014); *United States v. Godoy*, 706 F.3d 493 (D.C. Cir. 2013).

[2] *United States v. Del Valle-Rodriguez*, 761 F.3d 171, 175 (1st Cir. 2014); *United States v. Lifshitz*, 714 F.3d 146, 148, 150 (2d Cir. 2013); *Schonewolf*, 905 F.3d at 691; *United States v.*

The atextual primary-factor graft is gravely wrong. It contradicts the statute's text and context, snubs this Court's precedent, and blesses longer prison terms than the law demands for a reason the law forbids.

1. Start with the text of § 3582(a), which this Court in *Tapia* called a model of "clarity." 564 U.S. at 327. The statute crisply instructs courts to "recogniz[e] that imprisonment is not an appropriate means of promoting correction and rehabilitation." § 3582(a). That's not a "loosey-goosey caution not to put *too* much faith in the capacity of prisons to rehabilitate," it's a declaration that rehabilitation cannot justify a prison term. *Tapia*, 564 U.S. at 327.

2. "The context of § 3582(a) puts an exclamation point on this textual conclusion." *Id.* at 329. Part of the Sentencing Reform Act of 1984, § 3582(a) was enacted in a total overhaul of the federal sentencing scheme. *Mistretta v. United States*, 488 U.S. 361, 363 (1989). The old scheme "was premised on a faith in rehabilitation." *Tapia*, 564 U.S. at 324. But Congress concluded that the "outmoded model … had failed" and wrought "unjustified and shameful consequences." *Mistretta*, 488 U.S. at 366 (citing S. Rep. No. 98-225 (1983), U.S. Code Cong. & Admin. News 1984, p. 3182) (second quotation cleaned up). So Congress rejected the rehabilitative model wholesale, telling "[e]ach actor at each stage in the sentencing process" the same thing: "Do not think about prison as a way to rehabilitate an offender." *Tapia*, 564 U.S. at 330.

3. As this Court unanimously explained in *Tapia*, "text, context, and history point to the same bottom line: Section 3582(a) precludes sentencing courts from imposing or lengthening a prison term to promote an offender's rehabilitation." *Id.* at 332. The statute does not admit of a primary factor test. Indeed, in *Tapia* itself, this Court reversed because "the sentencing transcript *suggests*

Bennett, 698 F.3d 194, 201 (4th Cir. 2012); *United States v. Garza*, 706 F.3d 655, 660 (5th Cir. 2013); *United States v. Replogle*, 678 F.3d 940, 943 (8th Cir. 2012).

the possibility that Tapia's sentence was based on her rehabilitative needs." *Id.* at 334 (emphasis added). Thus, even a vague explanation that "suggest[ed]" reliance on rehabilitation, which was just "one of the factors" for the sentence, violated § 3582(a). *Id.* at 322, 334.

4. This Court recently corrected a similar error in *Esteras v. United States*, 606 U.S. 185 (2025). There, this Court held that the Sentencing Reform Act—by negative implication—forbids courts from relying on the retributive purpose of sentencing "when deciding whether to revoke supervised release." *Id.* at 197. Along the way, this Court rejected the "intermediate position[]" (also taken by the Seventh Circuit) that a district court may rely on retribution so long as the court "relies primarily" on the other factors. *Id.* at 190 n.1 (quoting *United States v. Clay*, 752 F.3d 1106, 1108–09 (7th Cir. 2014)). But if courts "cannot consider" a sentencing factor forbidden by "negative inference," then they "may not consider" a factor expressly placed out-of-bounds by Congress. *See id.* at 195. The Seventh Circuit's may-consider-just-not-too-much approach nullifies Congress's choice to ban rehabilitation as a reason for a prison term. *But see Gallardo v. Marstiller*, 596 U.S. 420, 431 (2022) (the judicial role is to "give effect to, not nullify, Congress' choice").

5. The question presented is exceptionally important because it affects every federal defendant at every federal sentencing proceeding—tens of thousands annually. Federal law, particularly federal sentencing law, should apply uniformly. *E.g.*, *United States v. Booker*, 543 U.S. 220, 253 (2005). But this split means that if Richards had been sentenced in Ohio rather than in Indiana, he would almost certainly have served a markedly shorter sentence. Geography ought not be outcome-determinative, but it was.

Richards respectfully asks this Court to grant his petition.

STATEMENT OF THE CASE

I. Federal Jurisdiction

On January 27, 2010, a federal grand jury sitting in the Northern District of Indiana indicted Timothy Richards, charging him in four counts with violating 21 U.S.C. §§ 841(a)(1), 856(a)(1), and 18 U.S.C. §§ 922(g)(1), 924(c). R. 13, at 1–4.[3] The district court had jurisdiction under 18 U.S.C. § 3231. He was convicted by a jury on all counts in June 2012 and was sentenced to 180 months in prison, followed by six years' supervised release. R. 200, at 2, 3.

Richards began supervision on September 16, 2022, but eventually violated his release conditions. R. 295, at 1–3. On February 11, 2025, the district court revoked his supervised release and sentenced him to 36 months' imprisonment, with no supervision to follow. R. 303, at 3, 4. The district court had jurisdiction under 18 U.S.C. § 3583(e).

He timely appealed to the Seventh Circuit, R. 305, which had jurisdiction under 18 U.S.C. § 3742 and 28 U.S.C. § 1291. On December 8, 2025, the Seventh Circuit affirmed the district court's judgment. App. R. 30, Slip Op. On February 4, 2026, the Seventh Circuit denied Richards's petition for rehearing and rehearing en banc. App. R. 41.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

II. The Legal Background on Rehabilitation at Sentencing

Criminal sentencing has four basic goals: retribution, deterrence, incapacitation, and rehabilitation. Prioritizing among these goals is as old as crime itself. *See* Julian P. Alexander, *Philosophy of Punishment*, 13 J. AM. INST. CRIM. L. & CRIMINOLOGY 235, 235–39 (1922). Rehabilitation, as a primary goal of incarcerative sentences, waxed in popularity in the early twentieth century

[3] This petition uses the following abbreviations: The district court's record is "R. #, at [pincite]"; the appellate docket is "App. R. #, at [pincite]."

and waned by its end. *See generally* Albert Alschuler, *The Changing Purposes of Criminal Punishment: A Retrospective on the Past Century and Some Thoughts about the Next*, 70 U. CHI. L. REV. 1, 1–14 (2003) (tracing the history of rehabilitation as a justification for punishment). To be sure, each side of the "long public debate on the role of rehabilitation" has valid goals and policy views. *United States v. Deen*, 706 F.3d 760, 768–69 (6th Cir. 2013); Marah Stith McLeod, *Communicating Punishment*, 100 B.U. L. Rev. 2263, 2305 (2020) (explaining that legislatures often do not "agree on the relative importance of all sentencing objectives").[4] But resolving that debate is a judgment call entrusted to the Legislature. *Esteras*, 606 U.S. at 196.

To situate this petition, we briefly trace Congress's evolving views on rehabilitation and discuss the split that led this Court to interpret § 3582(a) in *Tapia v. United States* before turning to the facts of Richards's case.

A. The Sentencing Reform Act, in 18 U.S.C. § 3582(a), rejects the rehabilitative sentencing model.

By the turn of the twentieth century, "penal reforms were part of a jurisprudential revolution that reshaped all of American law." Alschuler, *Changing Purposes*, supra, at 2. Departing from past practice, Congress authorized parole and indeterminate sentencing in 1910. *See* Act of June 25, 1910, Ch. 387, 36 Stat. 819, 819–21 (1910). That legislation was "based on concepts of the offender's possible, indeed probable, rehabilitation" and transformed the criminal justice system. *Mistretta*, 488 U.S. at 363. By 1949 this Court declared that "Retribution is no longer the dominant objective of the criminal law.

[4] *See also, e.g.*, *United States v. Shaw*, 39 F.4th 450, 462 (7th Cir. 2022) (Hamilton, J., concurring) (criticizing *Tapia* and § 3582(a) as "not realistic and invit[ing] hypocrisy or silence from sentencing judges"); Michael Vitiello, *Reconsidering Rehabilitation*, 65 Tul. L. Rev. 1011 (1991) (advocating the rehabilitative model of sentencing and critiquing the prevailing belief that rehabilitation was an improper aim).

Reformation and rehabilitation of offenders have become important goals of criminal jurisprudence." *Williams v. New York*, 337 U.S. 241, 248 (1949).

Within a few decades, though, that consensus view fell out of favor. Vitiello, *Reconsidering Rehabilitation*, supra, at 1012.[5] "Serious disparities in sentences" among similar defendants and "uncertainty as to the time the offender would spend in prison" led Congress to abandon the rehabilitative model of sentencing. *Mistretta*, 488 U.S. at 365–66. In its place, Congress adopted the Sentencing Reform Act of 1984, 98 Stat. 1987, "to overhaul federal sentencing practices." *Tapia*, 564 U.S. 325. One innovation was requiring determinate sentences. *Id.* A second innovation was "reject[ing] imprisonment as a means of promoting rehabilitation." *Mistretta*, 488 U.S. at 367.

Congress rejected incarcerative rehabilitation wholesale. Section 3582(a) tells judges "that imprisonment is not an appropriate means of promoting correction and rehabilitation." And § 994(k) prohibits the Sentencing Commission from incorporating rehabilitation into the Sentencing Guidelines' incarcerative recommendations. "Each actor at each stage in the sentencing process receives the same message: Do not think about prison as a way to rehabilitate an offender." *Tapia*, 564 U.S. at 330.

B. *Tapia* confirms that rehabilitation is an impermissible reason for prison sentences.

But old habits die hard. Despite § 3582(a)'s plain text, courts continued to rely on rehabilitation to increase defendants' prison sentences. *See, e.g.*, *United States v. Duran*, 37 F.3d 557, 561 (9th Cir. 1994); *United States v. Hawk Wing*, 433 F.3d 622, 630 (8th Cir. 2006); *United States v. Jimenez*, 605 F.3d

[5] *See also* Paula M. Ditton & Doris James Wilson, Bureau of Justice Statistics, NCJ 170032, *Truth in Sentencing in State Prisons* (1999), 3, https://bjs.ojp.gov/content/pub/pdf/tssp.pdf (cataloguing states' shift from indeterminate to determinate sentencing and abolishing parole) (last visited April 14, 2026).

415, 424 (6th Cir. 2010). At least five appellate courts insisted it was *frivolous* to argue that § 3582(a) prohibited prison sentences based on rehabilitation. *E.g.*, *United States v. Davis*, 406 F. App'x 52, 54 (7th Cir. 2010) (granting *Anders* motion because rehabilitation justified prison sentence).[6] Their theory was that § 3582(a) prohibited *imposing*, but not *lengthening*, a prison sentence for rehabilitative reasons. *E.g.*, *Duran*, 37 F.3d at 561; *but see in re Sealed Case*, 573 F.3d 844, 850 (D.C. Cir. 2009) ("A sentencing court deciding to keep a defendant locked up for an additional month is, as to that month, in fact choosing imprisonment over release.").

This Court unanimously rejected that theory. *Tapia*, 564 U.S. at 321; *id.* at 335 (Sotomayor, J., concurring). As this Court held, "Section 3582(a) precludes sentencing courts from imposing or lengthening a prison term to promote an offender's rehabilitation." *Id.* at 332 (majority op.). To reach that result this Court highlighted "the clarity of that provision's language," plus "[t]he context of § 3582(a)," which "puts an exclamation point on [the] textual conclusion" that rehabilitation cannot factor into the decision "to impose [or] to lengthen a prison term." *Id.* at 326, 329. In short, "a court may not impose or lengthen a prison sentence to enable an offender to complete a treatment program or otherwise to promote rehabilitation." *Id.* at 335.

Applying that rule, this Court reversed—even though other sentencing factors supported the prison term. *Id.* at 322. The district court had identified two factors that justified the prison sentence: "the need to provide treatment" and the need "to deter [Alejandra Tapia] from committing other criminal

[6] *See also United States v. Fairley*, 395 F. App'x 33, 34 (4th Cir. 2010) (same); *United States v. Wazwaz*, 327 F. App'x 669, 670 (8th Cir. 2009) (same); *United States v. Jones*, 216 F. App'x 189, 192 (3d Cir. 2007) (same); *United States v. Burford*, 220 F. App'x 414, 416–17 & n.1 (6th Cir. 2007) (chastising counsel for *not* filing *Anders* brief when rehabilitation justified prison sentence).

offenses." *Id.* at 322. Yet this Court reversed because "the sentencing transcript suggests the possibility that Tapia's sentence was based on her rehabilitative needs." *Id.* at 334. Justices Sotomayor and Alito concurred. Though skeptical that the district judge *actually* lengthened the sentence for rehabilitative reasons, they agreed that the record did not definitively dispel the possibility, so reversal was required. *Id.* at 337 (Sotomayor, J., concurring).

III. Facts Pertinent to the Issue Presented

A. The district court sentences Richards to "provide [him] with needed correctional treatment in the most effective manner."

Timothy Richards is either curmudgeonly or jealously independent, depending on who you ask. Either way, all agree that "[h]e [did not] want the help" that the probation department had to offer. App. 24a. He preferred to be homeless and unemployed, and smoke an occasional blunt, rather than be forced into a shelter and a job. App. 16a–18a. Everyone agreed that Richards's actual violations were "not particularly serious," to quote the district judge. App. 25a. But he refused help.

That didn't sit well with probation, the United States, or the district judge. The probation officer—who had gone to great lengths to try to help Richards—was fed up. R. 295, at 7. Ahead of sentencing, the officer recommended an above-guideline, 30-month prison sentence for two reasons. *First*, "to provide the defendant with an opportunity to participate in substance abuse treatment and other rehabilitative programs, that may be available to him at the Bureau of Prisons." *Id. Second*, the recommendation took "into consideration the opportunities that have been presented to the defendant, to assist him with his struggles with substance abuse, employment, and housing." *Id.* The guideline range was 18 to 24 months. *Id.* at 6.

At sentencing, the United States adopted the probation officer's sentencing recommendation and echoed his reasoning. App. 21a; App. R. 16, Br. for the United States, at 3–4, 15 (conceding as much). The government thought prison would help turn Richards into "a productive member of our community." App. 20a–21a. To that end, an above-guideline prison term would "balance[] out the temperature of getting him some help in a more controlled setting." App. 21a. Once released, thought the government, Richards would be more amenable to getting "gainful employment," "substance abuse treatment," and "stable housing." App. 20a.

Richards, by counsel, confirmed that he didn't want probation's help. App. 22a. He preferred "being homeless and being unemployed," which "are not illegal." *Id.* And though he had job skills, he preferred to "float[] through life, and [do] it his way." App. 23a. Even so, he recognized "there has to be a consequence" and, given the minor nature of his violations, asked for 18 months' imprisonment with no supervision to follow. App 24a.

Mid-hearing, the district court invited more input from the probation officer. App. 27a. The officer argued that Richards "just has to want to be successful. It's not that he's unable to. And I think he has it in him to be successful." *Id.* The officer opined that Richards "has to want that for himself. And I think he has periods of time he does want better for himself" but Richards was "struggl[ing]" since his release from prison. App. 28a.

Despite Richards's not-particularly-serious violations, the district court settled on an above-guideline, 36-month prison term, with no supervision to follow. App. 29a–30a. The court listed the things it considered, including "the arguments of the parties and the statements of the Probation Officer." App. 29a. The court then announced a 36-month sentence and gave this rationale:

> The sentence is imposed for the following reasons: *While it is outside the guideline range, the Court nonetheless finds that it provides the defendant with needed correctional treatment in the most effective manner*, and also adequately takes into account the history and characteristics of the defendant.
>
> Therefore, it is ordered that the defendant's term of supervision is revoked and the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of 36 months of imprisonment to hold the defendant accountable for the violations.

App. 29a–30a (emphasis added).

Richards timely appealed. R. 305.

B. The Seventh Circuit affirms, concluding that Richards failed to show the district court focused "exclusively or disproportionately on rehabilitation."

On appeal, Richards argued that the district court committed a straightforward *Tapia* error by explicitly invoking rehabilitation as the first reason for his above-guideline prison term. App. R. 9, Def.'s Br., at 9–13. The government argued that "permissible factors" explained the sentence and that "needed correctional treatment" meant "penological consequence[s]," not rehabilitation. App. R. 14, at 11–13.[7] Richards replied that the district court's very first reason for his above-guideline sentence was a near verbatim recitation of the rehabilitative factor of sentencing, *see* 18 U.S.C. § 3553(a)(2)(D), which is off-limits per 18 U.S.C. § 3582(a) and *Tapia v. United States*, 564 U.S. 319 (2011). App. R. 19, at 1–2, 8–16.

The Seventh Circuit affirmed. App. 7a. In its view, express reliance on rehabilitation did not show *Tapia* error without a "comparison to what the district court would have otherwise ordered." App. 5a. In that way the court created an inverse-parallel-result rule whereby *Tapia* error exists only if the

[7] The government also argued for plain-error review, App. R. at 7–9, but the Court of Appeals applied de novo review, App. 4a at n.*.

district court signals what prison sentence it "would have ordered had rehabilitation not driven it." *Id.* But the district court didn't provide that detail, and the sentencing transcript "suggest[ed] another reason for the length of Richards's sentence"—his incorrigibility. App. 6a. Though the district judge "restat[ed] … the rehabilitation factor of 18 U.S.C. § 3553(a)," that did not show that she "disproportionately focused on rehabilitation when setting the length of Richards's sentence." App. 7a.

Richards sought rehearing and rehearing en banc, but the Seventh Circuit denied his petition. App. Rs. 35, 41.

REASONS FOR GRANTING THE WRIT

This Court should grant Richards's petition and reverse the Seventh Circuit's judgment for four reasons. *First*, this petition directly implicates a deep and pervasive circuit split over the meaning of 18 U.S.C. § 3582(a). *Second*, the Seventh Circuit's decision is wrong because it snubs text, context, and binding precedent. *Third*, the question presented is exceptionally important because it affects every federal defendant at every federal sentencing in the country. *Fourth*, this petition provides an ideal vehicle to resolve the question presented because the issue was pressed and passed upon below and is outcome determinative.

I. The Seventh Circuit's decision further entrenches a deep and pervasive circuit split about what 18 U.S.C. § 3582(a) prohibits.

In *Tapia*'s wake, the appellate courts have splintered 5 to 7 over whether § 3582(a) prohibits *any* reliance on rehabilitation when imposing a prison term, or, instead, just *too much* reliance. The Seventh Circuit alone has decisions supporting both camps. *Compare, e.g.*, *United States v. Spann*, 757 F.3d 674, 675 (7th Cir. 2014) (Posner, J.) (explaining that "basing [a] sentence even in part on" rehabilitation "violat[es] the rule of *Tapia v. United States*"), *with*

United States v. Long, 79 F.4th 882, 889 (7th Cir. 2023) (Hamilton, J.) ("[T]o show a *Tapia* error, a defendant must show that the district court focused exclusively or disproportionately on rehabilitation in deciding whether to impose a prison term or how long a term should be."). In the 15 years since *Tapia*, this Court has not revisited or resolved that question.

Despite the clarity this Court saw in § 3582(a), *see Tapia*, 564 U.S. at 326, the Courts of Appeals have turned it into something of an ink blot test. To some, the statute sets a bright-line rule; for others, it's a lukewarm goal.

The split on the question presented is now 5 to 7. Five circuits hold that, under *Tapia*, § 3582(a) precludes *any* reliance on rehabilitation when imposing or setting the length of a prison term. *Adams*, 873 F.3d at 521 (finding error if "the district court based the length of the sentence of incarceration in part on rehabilitation"); *Joseph*, 716 F.3d at 1281 n.10 (ordering district court to not consider rehabilitation on remand because record suggested rehabilitation "may have been a factor"); *Thornton*, 846 F.3d at 1116 ("If the sentence of imprisonment is based even partially on rehabilitation, it is erroneous."); *Vandergrift*, 754 F.3d at 1310 ("*Tapia* error occurs where the district court considers rehabilitation" even if it is not the "'dominant' factor"); *Godoy*, 706 F.3d at 498 (rejecting *Tapia* error because "nothing … indicates that rehabilitation was a factor when the court determined Godoy's prison time").

These circuits typically emphasize § 3582(a)'s text and context, plus this Court's implicit conclusion that "the existence of alternative permissible reasons [for the sentence] does not cure *Tapia* error." *Thornton*, 846 F.3d at 1116 (citing *Tapia*, 564 U.S. at 335–36 (Sotomayor, J., concurring)).

Beyond the Seventh Circuit, six others hold that only primary reliance on rehabilitation violates § 3582(a) and *Tapia*. *See Del Valle-Rodriguez*, 761 F.3d at 175 (*Tapia* error occurs when "the record indicates that

rehabilitative concerns were the driving force behind, or a dominant factor in, the length of a sentence"); *Lifshitz*, 714 F.3d at 148, 150 (finding no error in sentencing the defendant to get prison medical care when other factors were the "primary considerations"); *Schonewolf*, 905 F.3d at 691 (holding that "rehabilitation may be a factor granted some weight in selecting a prison sentence, so long as it is not the primary or dominant consideration"); *Bennett*, 698 F.3d at 201 (similar); *Garza*, 706 F.3d at 660 (similar); *Replogle*, 678 F.3d at 943 (similar).

These Circuits tend to focus on the "cognitive tightrope" district judges face by having to consider rehabilitation for some sentences but not others, and the importance of promoting rehabilitation. *E.g.*, *Long*, 79 F.4th at 886, 889; *Shaw*, 39 F.4th at 461 (Hamilton, J., concurring). They also emphasize *Tapia*'s recognition that sentencing courts may discuss rehabilitation and even urge participation in treatment programs. *E.g.*, *Garza*, 706 F.3d at 659–60.

The split has persisted for over a decade with no sign it will resolve itself. *See Del Valle-Rodriguez*, 761 F.3d at 175 & n.2 (1-4 circuit split in 2014); *Schonewolf*, 905 F.3d at 691 (4-6 circuit split in 2018). Today, the split stands at 5 to 7, without any clear momentum in either direction. *See also* Br. of the U.S. in Opp'n, at 11, United States v. Long, No. 23-5713 (Dec. 4, 2023) (acknowledging a 4-7 split in 2023).

II. The decision below is wrong because it flouts text, context, and binding precedent.

The Seventh Circuit held that Richards could not meet the primary factor test—even though the district judge's first reason for the sentence was the statutory definition of rehabilitation—because he did not show what sentence he would have received "had rehabilitation not driven it." App. 5a.

That decision is wrong. Statutory text, context, and this Court's precedents all confirm that the primary factor test has no basis in § 3582(a). "Congress did not intend that courts consider offenders' rehabilitative needs when imposing prison sentences." *Tapia*, 564 U.S. at 331. The primary factor test is an atextual, acontextual graft that this Court should reject again. *See Esteras*, 606 U.S. at 190 & n.1 (rejecting the "intermediate position" that courts may consider proscribed factors if the court "relies primarily" on permissible ones.).

A. Section 3582(a)'s text prohibits courts from relying on rehabilitation when imposing or lengthening a prison term.

Consider first the text of § 3582(a). It uses mandatory language to describe what courts "shall" "recogniz[e]" when "impos[ing]" and "determining the length of" a prison term: "that imprisonment is not an appropriate means of promoting correction and rehabilitation." The statute imposes a mandatory duty on district courts to not base prison sentences, even in part, on rehabilitation. *Thornton*, 846 F.3d at 1116; *see also Smith v. Spizzirri*, 601 U.S. 472, 476 (2024) ("[T]he use of the word 'shall' 'creates an obligation impervious to judicial discretion.'"). As the United States confessed 15 years ago, "[t]he text of Section 3582(a) also refutes amicus's contention that courts may base a term of imprisonment on rehabilitative purposes provided that consideration is only one factor among others." Reply Br. for the U.S. at 18, Tapia v. United States, 564 U.S. 319 (2011) (No. 10-5400), 2011 WL 1354417 ("Tapia Reply Br."). Section 3582(a) does not just offer "a kind of loosey-goosey caution not to put *too* much faith in the capacity of prisons to rehabilitate." *Tapia*, 564 U.S. at 327. It is, instead, a command that "imprisonment is not suitable for the purpose of promoting rehabilitation." *Id.*

True enough, Congress could have said that "a sentencing judge may never, ever, under any circumstances consider rehabilitation in imposing a

prison term." *Id.* at 328. It's always possible for "armchair legislators" to "come up with something even better." *Id.* But "Congress expressed itself clearly in § 3582(a)"—imprisonment is a forbidden reason for prison sentences. *Id.*

Courts have no license to "adorn the Act with a rule Congress could have adopted but did not enact." *Rico v. United States*, 607 U.S. ---, 156 S. Ct. 947, 955 (2026). There is no primary factor test in the statute. It doesn't include one expressly and no court has pointed out a textual hook for inferring one. That's not because such statutes cannot exist—Florida law, for example, provides that "[t]he primary purpose of sentencing is to punish the offender. Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment." FLA. STAT. § 921.002(1)(b) (2020).

The primary factor test is not just atextual, it is antitextual. Section 3582(a) places rehabilitation—and rehabilitation alone—off-limits as a consideration for prison terms. Yet the primary factor test demands impossible proof: What would the court have done had it *not* relied on an illegal sentencing factor—either exclusively or disproportionately? *See* App. 4a–5a. Courts do not generally admit to imposing a prison sentence based solely on a prohibited factor, and every sentence should be justified by at least *some* permissible factors. *Thornton*, 846 F.3d at 1116. Ultimately, any reliance on rehabilitation is disproportionate to the weight that Congress said should be assigned it: none. *Esteras*, 606 U.S. at 197.

Courts that use the primary factor test don't root it in § 3582(a). Instead, they point out that (1) other provisions require courts to consider rehabilitation at other steps in the sentencing process, *e.g.*, *Long*, 79 F.4th at 889 (citing 18 U.S.C. § 3583(c)), and (2) it is hard for "the decision-making mind [to] erase so easily what has gone before," *Shaw*, 39 F.4th at 461 (Hamilton, J., concurring). But we require decisionmakers (judges and juries alike) to perform those

mental gymnastics all the time. *Esteras*, 606 U.S. at 200 n.9. Consider how we expect judges and juries to treat hearsay, impeachment, other-act evidence, or co-defendants' confessions, to name a few examples. *See Samia v. United States*, 599 U.S. 635, 646–47 (2023).

Now one might say that it would be a good idea to include a primary factor test, like Florida's, in § 3582(a). That could ease judges' mental burdens; some insist it would even be better policy. Maybe so. But that requires a statutory rewrite, not statutory interpretation. "Congress enacted [§ 3582(a)], and it is up to Congress—if it so chooses—to change it." *Kousisis v. United States*, 605 U.S. 114, 135 (2025). For now, "the role of this Court is to apply the statute as it is written—even if we think some other approach might 'accord with good policy.'" *Burrage v. United States*, 571 U.S. 204, 218 (2014). And the statute as written provides that rehabilitation is "an unsuitable justification for a prison term." *Tapia*, 564 U.S. at 327.

B. Section 3582(a)'s context confirms that courts cannot consider rehabilitation as a reason for prison terms.

"The context of § 3582(a) puts an exclamation point on this textual conclusion." *Id.* at 329. Recall that the whole point of § 3582(a) was to reject the "outmoded" rehabilitative model of sentencing when it comes to prison terms. *Mistretta*, 588 U.S. at 365–66 (quoting S. Rep. No. 98-225, at 38); *see also Shaw*, 39 F.4th at 456–57 (tracing the Sentencing Reform Act's history and purpose). The Sentencing Reform Act rejects prison-based rehabilitation wholesale. Between § 3582(a) and 28 U.S.C. § 994(k), the Act sends a clear message to every actor in the sentencing process: "Do not think about prison as a way to rehabilitate an offender." *Tapia*, 564 U.S. at 330.

When the Sentencing Reform Act instructs courts to consider rehabilitation in the sentencing process, e.g., 18 U.S.C. § 3562(a), § 3583(c), the Act

gives courts the tools necessary to require defendants to engage in rehabilitative programs, *see id.* § 3563(b)(9); § 3563(b)(11); § 3563(a)(4); § 3583(d). But the Act includes no such authority to order prison-based rehabilitation. That "statutory silence" is "illuminating" and cuts against any implied authority to base sentences partly on rehabilitative needs. *Tapia*, 564 U.S. at 330–31.

The contemporaneous understanding of § 3582(a) underscores these points. "To alleviate these problems" arising from the "outmoded rehabilitation model," Congress set out to rein in sentencing courts' "unfettered discretion." S. Rep. 98-225, at 38–39. Congress specifically noted that, though most sentences could be justified by any purpose, § 3582(a) was an intentional limit that prohibited reliance on rehabilitation when imposing or determining the length of a prison sentence. *Id.* at 67 & n.262. In short, "Congress barred courts from considering rehabilitation in imposing prison terms." *Tapia*, 564 U.S. at 332 (citing S. Rep. 98-225 at 76 & n.165); *see also* Tapia Reply Br. at 17–18 ("Section 3582(a) is … a categorical ban" on using rehabilitation to justify a prison term).

As this Court succinctly put it: "text, context, and history point to the same bottom line: Section 3582(a) precludes sentencing courts from imposing or lengthening a prison term to promote an offender's rehabilitation." *Id.*

C. *Tapia* and *Esteras* clarify that rehabilitation cannot form any part of the reason for a prison sentence.

This Court's decisions in *Tapia* and *Esteras* leave no room for sentencing judges to consider forbidden sentencing factors alongside permissible ones. Instead, if Congress declares a sentencing factor or purpose off limits, then the judicial role is to honor that choice scrupulously.

Consider *Tapia* itself. There, as here, the district judge based the prison sentence on two factors: "the need to provide treatment" and "to deter her from

committing other criminal offenses." *Tapia*, 564 U.S. at 322. This Court unanimously reversed, though, because the district court based the sentence partly on rehabilitation, which § 3582(a) prohibits. *Id.* at 335.

If sentencing courts can rely partly on rehabilitation and partly on other permissible factors, *Tapia* would have come out differently. Any error would have been harmless. But this Court rejected Alejandra Tapia's sentence because § 3582(a) does not allow courts to consider rehabilitation when imposing a prison term. The Court rejected the view that some reliance is okay if the court just avoids putting "*too* much faith in the capacity of prisons to rehabilitate." *Id.* at 327. Instead, as this Court and the United States have recognized, § 3582(a) erects a total barrier: "Congress *barred* courts from *considering* rehabilitation in imposing prison terms." *Id.* at 332 (emphasis added); Tapia Reply Br. at 17 ("Section 3582(a) imposes an absolute prohibition, not a mere caution."). Notice, too, that absolute certainty about reliance on rehabilitation is not a prerequisite for *Tapia* error; just "the possibility" that a sentence is "based on [the defendant's] rehabilitative needs." *Id.* at 334; *id.* at 337 (Sotomayor, J., concurring) (agreeing remand was necessary because the sentencing court's comments were not "perfectly clear"). And as the Solicitor General persuasively noted, relying on rehabilitation as a reason for a prison term is improper "even if the court also invokes other factors in justifying the chosen term." Tapia Reply Br. at 18.

Consider also this Court's recent decision in *Esteras*. There, this Court faced the question whether § 3583(e), by negative implication, prohibited district courts from considering the retributive purpose of sentencing when revoking supervised release. *Esteras*, 606 U.S. 195. This Court answered "yes," concluding that the *expressio unius* canon of statutory interpretation compelled that result. *Id.* at 195–96. Ultimately, when Congress decides to "exclude"

certain "sentencing factors," that "means that district courts *cannot consider*" the excluded factor. *Id.* at 197 (emphasis added). And, of course, this Court's "task is to 'give effect to, not nullify Congress' choice.'" *Id.* at 196.

In so holding, this Court rejected both the "may consider" and "intermediate positions" adopted by some courts of appeals. *Id.* at 190 n.1. The intermediate position held that courts *could* consider the prohibited factor so long as it wasn't the "dominant" consideration or the court "relie[d] primarily" on permissible factors. *Id.* (quoting first *United States v. Sanchez*, 900 F.3d 678, 684 & n.5 (5th Cir. 2018), and then *Clay*, 752 F.3d at 1108–09). But even when a sentencing consideration is off-limits only by negative implication, this Court held that "courts may not consider it." *Id.* at 197.

Relying a little-but-not-too-much on an expressly prohibited factor "trivializes," *id.* at 198, Congress's express directive that "imprisonment is not an appropriate means of promoting correction and rehabilitation," § 3582(a). The primary factor test "adorn[s] the Act with a rule Congress could have adopted but did not enact." *Rico*, 156 S. Ct. at 955. But courts have no license to interlineate invisible ink in a statutory text.

To be clear, there's no abstract problem with district courts wanting to help defendants or promote their rehabilitation. That's a noble, pro-social goal. But Congress declared that a prison cell is a forbidden "means" to that end. § 3582(a); *see Godoy*, 706 F.3d at 496. Because § 3582(a) declares that rehabilitation is off-limits as a reason for a prison term, "district courts may not consider it," *Esteras*, 606 U.S. at 203—even a little bit, *id.* at 206 (Jackson, J., concurring); *accord Pepper v. United States*, 562 U.S. 476, 489 n.8 (2011) (constitutionally forbidden factors "may play no adverse role … at sentencing").

III. The question presented is an important and recurring issue fundamental to every federal sentencing.

Whether judges may lengthen prison terms based partly on rehabilitation is a fundamental question at every federal sentencing in this Country. As this Court has repeatedly held, district courts "must consider" the appropriate statutory sentencing factors in every sentencing proceeding. *E.g.*, *Esteras*, 606 U.S. at 191 (majority op.); *Gall v. United States*, 552 U.S. 38, 50 (2007) (requiring courts to consider the statutory factors to the extent they apply). Whether the sentencing judge can consider rehabilitation when imposing a prison term affects tens of thousands of defendants annually. *See* U.S. Courts, Judicial Business, Table D-5 (Sept. 31, 2025).

One way to contextualize the importance of the question presented is to look at the data. Consider the following information, taken from the Judiciary's annually reported data, which shows that this question affects more than 50,000 defendants every year:

REPORTING PERIOD[8]	ALL DEFENDANTS SENTENCED	ALL DEFENDANTS SENTENCED TO PRISON
September 2025	76,514	69,705
September 2024	69,405	62,997
September 2023	65,743	59,598
September 2022	65,763	59,276
September 2021	58,516	52,525
September 2020	66,113	59,918
September 2019	78,767	71,124
September 2018	73,109	65,342
September 2017	69,016	60,953
September 2016	70,021	61,433
September 2015	73,125	63,621

[8] All data in this chart is drawn from the annual September 30 release of Table D-5, available at https://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables (last visited Apr. 27, 2026).

September 2014	78,712	68,484
September 2013	83,709	73,255
September 2012	88,878	77,310
September 2011	91,938	79,202
TOTAL	**1,109,329**	**984,743**

The question presented directly affects the district courts' daily business. Since *Tapia*, nearly one million defendants have been sentenced to prison. Those sentences depend partly on the Circuit in which they are lucky (or unlucky) enough to be indicted. But federal law, particularly federal sentencing law, should apply uniformly. *E.g.*, *Rita v. United States*, 551 U.S. 338, 349 (2007); *Taylor v. United States*, 495 U.S. 575, 591 (1990); *United States v. Turley,* 352 U.S. 407, 411 (1957). On this issue it does not.

Richards respectfully submits that this Court should intervene to ensure that defendants are not receiving disparate sentences based on a sentencing factor, though prohibited by Congress, that has been approved in some circuits but not others. Indeed, that's why the Sentencing Reform Act generally, and § 3582(a) specifically, exist in the first place: to do away with divergent, rehabilitation-infused sentencing practices and to restore uniformity and predictability in sentencing. *Mistretta*, 488 U.S. at 366.

IV. This case is an ideal vehicle for resolving the question presented.

This petition is an ideal vehicle for resolving the issue presented. The asserted *Tapia* error is a pure question of law. As the Solicitor General has acknowledged, this question is splitting the Circuits. Br. of the U.S. in Opp'n at 11, United States v. Long, No. 23-5713 (Dec. 4, 2023).

This petition has none of the typical vehicle problems that arise in appeals challenging *Tapia* error. *See id.* at 12–13. *Tapia* error was the only claim pressed on appeal and the only issue the Court of Appeals resolved on de novo

review. *See, e.g.*, *United States v. Williams*, 504 U.S. 36, 42 (1992) (certiorari appropriate when issued passed upon below); *Yee v. City of Escondido*, 503 U.S. 519, 534–35 (1992) (petitioners may advance different arguments in support of the same claim pressed on appeal).[9] The factual and legal issues are well developed, and the Seventh Circuit reviewed de novo the record and legal arguments. App. 4a.

The question presented is outcome determinative. The district court expressly said that the first "reason" for Richards's above-guideline sentence was his need for rehabilitation. App. 29a. The alleged need for rehabilitation dominated his revocation hearing as the primary argument in support of an above-guideline sentence offered by the government and the probation officer. App. 13a; R. 295, at 7. Had Richards been sentenced a few miles away in Ohio rather than Fort Wayne, Indiana, the district court could not have based his sentence on his need for rehabilitation. The court would have imposed a sentence 150% of the top-end of the guidelines had it focused on Richards's "not particularly serious" violations, rather than the need to "provide[] the defendant with needed correctional treatment in the most effective manner." App. 25a.

There is little risk of mootness because Richards's prison term expires May 27, 2027. Ultimately, Richards will spend at least some time in prison for rehabilitative purposes. But any time spent in prison for rehabilitation—a ground that Congress expressly disavowed— undercuts the basic fairness of his sentence. To offer a paraphrase, "[f]ew things should give [this Court] more

[9] In all candor, Richards tuned his argument below to the Seventh Circuit's binding caselaw, *see MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 125 (2007), which required him to show that rehabilitation was a primary factor at sentencing. *See* App. R. 9, at 10–11. But his claim all along has been that the district judge committed *Tapia* error by relying on the rehabilitative purpose of sentencing to give him an above-guideline sentence. *Id.* at 9–13; App. R. 19, at 8–20. Under *Yee*, his new arguments in support of the same claim are proper. 503 U.S. at 534–35.

pause than the possibility of mistakenly [keeping in] prison a man Congress has said should not be there." *United States v. Mendiola*, 696 F.3d 1033, 1045 (10th Cir. 2012) (Gorsuch, J., concurring).

CONCLUSION

For all these reasons, this Court should grant the petition for a writ of certiorari and reverse the judgment of the Seventh Circuit.

DATE: April 29, 2026

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