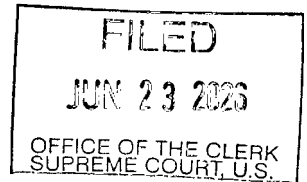


26-5766

No. _____



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

Douglas Lee Barlow,
Petitioner

ORIGINAL

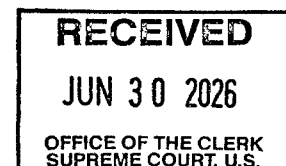
v.

UNITED STATES OF AMERICA,
Respondent

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether courts satisfy their obligations under 18 U.S.C. § 3582(c)(1)(A), *Concepcion v. United States*, *Pepper v. United States*, and U.S.S.G. § 1B1.13(b)(5) when they acknowledge decades of rehabilitation, findings that the defendant no longer poses a danger to the public, and substantial evidence of a coercive upbringing and indoctrination involving threats of death, yet continue to treat decades-old offense conduct and offense-era circumstances as controlling.

LIST OF PARTIES

All parties to the proceeding in the United States Court of Appeals for the Fifth Circuit, whose judgment is the subject of this petition, are listed below. No party is a publicly traded corporation with a stock ticker symbol.

Petitioner: Douglas Lee Barlow

Respondent: United States of America

RELATED CASES

The following cases in other courts are directly related to this case, as they arise from the same trial court case:

United States v. Barlow, No. 4:92-CR-177-3, United States District Court for the Southern District of Texas, Houston Division. Motion for Compassionate Release denied March 26, 2025.

United States v. Barlow, No. 25-20148, United States Court of Appeals for the Fifth Circuit. Judgment affirming denial of compassionate release entered March 17, 2026. Petitions for panel rehearing and rehearing en banc denied April 14, 2026.

United States v. Patricia LeBaron, No. 4:92-CR-177-05, United States District Court for the Southern District of Texas, Houston Division. Compassionate release granted November 6, 2023.

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Pursuant to Supreme Court Rule 34.6]

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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

The opinion of the United States Court of Appeals for the Fifth Circuit in No. 25-20148, dated March 17, 2026, appears at Appendix A to the petition and is unpublished.

The Memorandum Opinion and Order of the United States District Court for the Southern District of Texas in No. 4:92-CR-177-3, dated March 26, 2025, appears at Appendix B to the petition. The district court's order is sealed.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit decided this case on March 17, 2026. Timely petitions for panel rehearing and rehearing en banc were denied by the United States Court of Appeals on April 14, 2026, and a copy of the order denying both petitions appears at Appendix C.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 3582(c)(1)(A)(i) provides in relevant part:

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 . . . after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

U.S.S.G. § 1B1.13(b)(5) (2023 Amendment) provides in relevant part:

Extraordinary and compelling reasons exist under any of the following circumstances . . . (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).

28 U.S.C. § 994(t) provides:

The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.

STATEMENT OF THE CASE

I. Petitioner's Background and Offenses

Petitioner Douglas Lee Barlow, now 65 years old, has been incarcerated since 1988, nearly four decades. He was raised from birth within a Mormon polygamist fundamentalist cult whose members lived under a system of rigid control, isolation, and obedience enforced through the doctrine of "blood atonement." Petitioner's mother became one of the leader's wives, and he was raised in an insular environment largely separated from mainstream society, from his biological father, and from his full biological siblings.

Petitioner endured systematic indoctrination beginning in early childhood. He was groomed as a child soldier, subjected to forced labor without pay, placed under a blood covenant demanding total loyalty on pain of death, and taught that disobedience constituted apostasy punishable by killing. He received no formal education, no medical or mental health care, and no meaningful exposure to mainstream society. He endured severe developmental trauma and had no opportunity to develop independent moral judgment. Raised entirely within that system from infancy, Petitioner did not recognize it as a cult until after he entered prison and was exposed to perspectives beyond the environment in which he had been indoctrinated.

At the time of the offenses, committed when Petitioner was 27 years old, Petitioner shared the same cult upbringing, the same blood atonement indoctrination, and the same coercive environment as co-defendant Patricia

LeBaron. He was four years older. In connection with Patricia's sentencing, forensic psychiatrist Dr. Larry M. Nahmias, M.D., P.A., who met with Patricia and prepared a report about her individual circumstances, described her environment and indoctrination as "the most thorough and complete indoctrination of an individual by a cult that I have come across in my almost 20 years of practicing medicine" and described the family situation as "the most bizarre and violent family situation that I have encountered." *United States v. Patricia LeBaron*, No. H-92-177-05, at 16 (S.D. Tex. Nov. 6, 2023) (quoting Report of Dr. Larry M. Nahmias, M.D., P.A. (May 21, 1993)). That family was Petitioner's family. That environment was Petitioner's environment from infancy.

As the district court found in granting Patricia's release, the children raised within this cult "were isolated from society, had little education, and were instructed to view non-Church members as enemies," and "[t]he children were taught from a young age that they would be subject to blood atonement for their sins if they strayed, and they entered into a covenant in which they asked to be killed if they became a son or daughter of perdition." *Id.* at 15. The district court concluded that Patricia's extensive indoctrination and coercive upbringing, together with evidence that she acted while under extreme duress from the threat of death, constituted extraordinary and compelling reasons to reduce her identical life sentence to time served. *Id.* at 21, 24. The indoctrination the district court described was the indoctrination that shaped Petitioner's life from birth. The duress the

district court found compelling was the same system of coercion under which Petitioner acted.

On January 20, 1993, a jury convicted Petitioner of tampering with a witness, use of a firearm during a crime of violence, obstruction of religious exercise, and RICO violations. On May 26, 1993, the district court imposed four concurrent life sentences together with additional consecutive terms.

II. The Compassionate Release Proceedings

After exhausting his administrative remedies, Petitioner filed a pro se motion for compassionate release in July 2024 under 18 U.S.C. § 3582(c)(1)(A)(i), invoking the Sentencing Commission's November 2023 amendment to U.S.S.G. § 1B1.13(b)(5), which recognizes that a defendant's circumstances, when similar in gravity to the enumerated examples, may constitute extraordinary and compelling reasons warranting sentence reduction. The Sentencing Commission's accompanying commentary expressly identifies trauma, abuse, victimization, and coercive control as the kinds of circumstances the provision is designed to address. See 88 Fed. Reg. 28254 (May 3, 2023). In support of his motion, Petitioner presented evidence of nearly four decades of rehabilitation, exemplary institutional conduct, educational and rehabilitative programming, service as a bilingual GED tutor, acceptance of responsibility, family reconnection, and decades of demonstrated rejection of the cult's ideology. He also submitted a detailed reentry plan, educational and vocational certificates, and letters from family members supporting his release. The district court expressly noted that it had "considered the heartfelt

letters from members of the LeBaron family seeking compassionate release for . . . Barlow." *United States v. Barlow*, No. 4:92-CR-177-3, at 11 (S.D. Tex. Mar. 26, 2025) (sealed).

The government opposed the motion. The district court denied it on March 26, 2025, in a sealed Memorandum Opinion and Order. The court recognized that Petitioner had "spent more than thirty years in prison," had "admitted [his] guilt," and had "long ago disassociated [himself] from the LeBaron clan and disavowed its teachings." The court also found that "continued imprisonment is not necessary 'to protect the public from further crimes of the defendant(s)'" and that Petitioner would not present "a danger to the safety of any other person or to the community." Nevertheless, the court was "not persuaded that all of the circumstances relied upon by Barlow establish that 'extraordinary and compelling reasons' justify a reduction in his sentence." *United States v. Barlow*, No. 4:92-CR-177-3, at 9, 11 (S.D. Tex. Mar. 26, 2025) (sealed). The court then independently weighed the 18 U.S.C. § 3553(a) factors, concluding that the nature and seriousness of the offense conduct, Petitioner's role in carrying it out, the mandatory life sentences originally imposed, and the need for punishment and deterrence weighed against release. The court further relied on distinctions between Petitioner and Patricia LeBaron based on gender and a four-year age difference.

The court did not meaningfully engage with the Sentencing Commission's explanation for the 2023 amendment to § 1B1.13(b)(5) or conduct an individualized analysis of Petitioner's specific circumstances under that standard. It did not

address the controlling requirements of *Concepcion v. United States*, 597 U.S. 481 (2022) or *Pepper v. United States*, 562 U.S. 476 (2011), nor did it explain what role those authorities played in its analysis. In framing its analysis, the court relied on *United States v. Jackson*, 27 F.4th 1088 (5th Cir. 2022), for the governing three-hurdle framework and on *United States v. Escajeda*, 58 F.4th 184, 186 (5th Cir. 2023), for the definition of "extraordinary" as circumstances "beyond or out of the common order," "remarkable," and "singular." The court also relied on *Ward v. United States*, 11 F.4th 354, 360 (5th Cir. 2021), for the proposition that a district court retains discretion to deny compassionate release if the § 3553(a) factors counsel against reduction. All three cases predate the November 2023 amendment by months and years. The Sentencing Commission adopted the 2023 amendment to broaden and clarify the scope of extraordinary and compelling circumstances, including through the catchall provision now codified at § 1B1.13(b)(5).

Petitioner's circumstances readily satisfy even *Escajeda*'s own formulation. A coercive upbringing and indoctrination involving threats of death, coupled with nearly four decades of rehabilitation and a judicial finding that Petitioner no longer poses a danger to the public, is plainly "beyond the common order" and "remarkable" by any ordinary understanding of those terms. Yet the district court concluded otherwise, without explaining how circumstances so far outside the common order failed to meet a standard defined by those very terms. Moreover, *Escajeda* predates the Sentencing Commission's November 2023 amendment to § 1B1.13(b)(5), which broadened the catchall provision and expressly permits courts

to consider circumstances individually or in combination. The court's reliance on that pre-amendment framework to evaluate a post-amendment claim reflects a failure to meaningfully engage with the intervening legal developments that *Concepcion* requires courts to consider.

Petitioner timely appealed. The Fifth Circuit affirmed in a two-page per curiam opinion issued March 17, 2026, on summary calendar. *United States v. Barlow*, No. 25-20148 (5th Cir. Mar. 17, 2026). The opinion cited only *United States v. Chambliss*, 948 F.3d 691 (5th Cir. 2020), for the abuse-of-discretion standard, and held that Petitioner's disagreement with the district court's weighing of the § 3553(a) factors was "not a sufficient ground for reversal."

The Fifth Circuit's opinion did not discuss *Concepcion*, *Pepper*, 18 U.S.C. § 3582(c)(1)(A), or the Sentencing Commission's 2023 amendment to U.S.S.G. § 1B1.13(b)(5), nor did it explain what role those authorities played in its review. It did not address the Patricia LeBaron grant or the intra-case disparity. The opinion's analytical thinness illustrates that the court of appeals did not explain how the modern compassionate-release framework applied to the record before it.

The petition for panel rehearing and rehearing en banc was denied April 14, 2026, without noted dissent.

III. The Differing Treatment of Similar Circumstances Illustrates the Need for Guidance Under § 1B1.13(b)(5)

The issue here is not that Petitioner and his co-defendant are factually identical. Rather, this case illustrates the absence of clear standards governing how courts should evaluate coercive-control evidence, intervening developments, and

other extraordinary and compelling circumstances under U.S.S.G. § 1B1.13(b)(5). The district court acknowledged that both individuals were raised within the same totalist cult environment, subjected to the same blood-atonement indoctrination, and influenced by the same system of coercion and psychological control. Yet the court reached sharply different outcomes without identifying a principled framework for determining how the distinctions it identified affected the gravity of Petitioner's materially similar circumstances.

Indeed, the district court acknowledged that Petitioner's motion was "premised almost entirely" on the argument that he was entitled to compassionate release for the same reasons relief had been granted to Patricia. *United States v. Barlow*, No. 4:92-CR-177-3, at 7 n.7 (S.D. Tex. Mar. 26, 2025) (sealed). The court therefore understood the comparison Petitioner was making, yet never articulated a coherent standard that explains why the same coercive environment produced opposite outcomes under the same provision. This case therefore presents an opportunity to clarify how courts should evaluate evidence of lifelong coercive indoctrination, diminished autonomy, lack of danger to the public, and post-sentencing rehabilitation under the modern compassionate-release framework.

The court distinguished Petitioner from Patricia on the grounds that Patricia experienced sexual abuse within the cult, that Petitioner had a "visible role" in the offenses, and that his gender and slightly older age indicated greater capacity to appreciate wrongfulness. None of those distinctions reflect a coherent legal standard under § 1B1.13(b)(5). That provision does not rank one form of

victimization above another; it asks whether the circumstances are "similar in gravity" to the enumerated examples. The court found Patricia acted "while under extreme duress from the threat of death posed by the cult's practice of blood atonement." *United States v. Patricia LeBaron*, No. H-92-177-05, at 21 (S.D. Tex. Nov. 6, 2023). That same blood atonement doctrine governed Petitioner's entire life. A "visible role" in a coercive hierarchy where defiance meant death cannot establish greater capacity for autonomous choice—it reflects greater coercion. See *Enmund v. Florida*, 458 U.S. 782, 798 (1982) (culpability turns on capacity for autonomous choice, not the physical act performed under coercion). And gender and a four-year age difference are not measures of culpability under § 1B1.13(b)(5).

The age distinction warrants particular attention. In granting Patricia's release, the court itself acknowledged that Patricia, 23 at the time of the offenses, was "slightly older than the youthful offenders in the opinions the court cited." *United States v. Barlow*, No. 4:92-CR-177-3, at 8 (S.D. Tex. Mar. 26, 2025) (sealed). That acknowledgment substantially undermines the court's age-based distinction: the court's own supporting precedents involved defendants younger than 23, yet the court extended relief to Patricia, despite her being "slightly older." Having done so, the court had no coherent basis for treating a four-year age difference as legally significant under the same provision. A standard that extends to a defendant already a little older than the supporting precedents, then stops four years later, is not a standard. It is an unexplained line with no principled basis in § 1B1.13(b)(5).

Further, the court's conclusion that Petitioner possessed a meaningful ability to disassociate himself from the cult is contradicted by its own findings. *United States v. Barlow*, No. 4:92-CR-177-3, at 8 (S.D. Tex. Mar. 26, 2025) (sealed). The same order relies approvingly on the *Patricia* order's finding that children in this cult "entered into a covenant in which they asked to be killed if they became a son or daughter of perdition." *Patricia LeBaron*, No. H-92-177-05, at 15. A person bound by a death covenant—one the court found genuine and operative—does not have a meaningful ability to disassociate from the cult organization enforcing it. The court found the coercive environment in which both defendants were raised sufficient to constitute "extreme duress from the threat of death" warranting Patricia's release, yet simultaneously concluded, based on Petitioner's gender and a four-year age difference, that he could meaningfully choose to disassociate from that same life-threatening environment, without explaining how age or gender can overcome that level of threat, indoctrination and coercion. That internal contradiction is not a matter of judicial discretion. It is an absence of the reasoned, individualized analysis that § 1B1.13(b)(5), *Concepcion*, and *Pepper* require.

The absence of coherent standards is further illustrated by the disparity in how the two proceedings were conducted. Patricia's motion was supported by a detailed expert psychological evaluation by Dr. Adeyinka Akinsulure-Smith, a Professor of Psychology at the City University of New York and Senior Supervising Psychologist at the Bellevue Program for Survivors of Torture, with more than thirty years of experience examining survivors of trauma and coercive control. See

Psychological Evaluation of Patricia LeBaron (2023), cited in *Patricia LeBaron*, No. H-92-177-05 (S.D. Tex. Nov. 6, 2023). Petitioner, proceeding without counsel or expert resources, had no equivalent evaluation. Nothing in the record suggests that an expert assessment of Petitioner would have revealed lesser trauma, lesser coercive control, or lesser impaired autonomy. The disparity in access to expert support only deepens the disparity in outcome and underscores why coherent legal standards, not the unequal availability of expert support, must drive the application of § 1B1.13(b)(5).

REASONS FOR GRANTING THE WRIT

Petitioner has spent nearly four decades in federal prison. The district court found that continued imprisonment is not necessary to protect the public from further crimes and that Petitioner would not present a danger to the safety of any other person or to the community. The court recognized more than thirty years of imprisonment, admitted guilt, and complete disassociation from the cult organization and its ideology. It considered evidence of a severely coercive upbringing and lifelong indoctrination of the kind the Sentencing Commission's 2023 amendment to U.S.S.G. § 1B1.13(b)(5) was intended to address. *United States v. Barlow*, No. 4:92-CR-177-3, at 7-9 (S.D. Tex. Mar. 26, 2025) (sealed). Yet relief was denied, based primarily on offense conduct and offense-era circumstances from nearly forty years ago, circumstances arising from the same system of

indoctrination and coercive control that the court found sufficient to release a co-defendant one year earlier.

The question this case presents is not whether the district court considered those acknowledged findings. It is what meaningful role those findings play, in light of 18 U.S.C. § 3582(c)(1)(A), *Concepcion v. United States*, *Pepper v. United States*, and U.S.S.G. § 1B1.13(b)(5), if they can all be made and still never change the outcome.

I. The Modern Compassionate-Release Framework Requires Further Guidance

Section 3582(c)(1)(A) exists precisely because Congress recognized that circumstances change over time. The statute reflects a longstanding principle that continued deprivations of liberty should be evaluated in light of current circumstances rather than solely through the lens of decades-old judgments. Compassionate-release proceedings are inherently forward-looking; they ask whether continued imprisonment remains justified given current facts, current law, current danger, and current circumstances. The Sentencing Commission's November 2023 amendment to U.S.S.G. § 1B1.13(b)(5) reinforced that forward-looking orientation by expressly recognizing that trauma, abuse, victimization, and coercive control with lasting and profound effects may constitute extraordinary and compelling reasons for sentence reduction when similar in gravity to the enumerated examples. See 88 Fed. Reg. 28254 (May 3, 2023). The question this petition presents affects thousands of defendants. The Sentencing Commission reported 2,795 compassionate release motions decided by federal courts in FY 2025, *Barlow v. United States* — Petition for a Writ of Certiorari

with 2,401 denied and only 394 granted—a denial rate of 85.9 percent. U.S. Sentencing Commission, Compassionate Release Data Report: Fiscal Year 2025 (May 2026). Every defendant who presents documented rehabilitation, a finding of no public danger, and evidence of a coercive upbringing or severe trauma faces the same unresolved question: whether those acknowledged circumstances can be outweighed by decades-old offense conduct and still satisfy the obligations Congress imposed in § 3582(c)(1)(A) and the framework this Court established in *Concepcion* and *Pepper*. The question this case presents is whether that framework is real or nominal. If courts may continue to treat decades-old offense conduct and offense-era circumstances as controlling despite all intervening developments, then compassionate-release review becomes little more than a permanent reaffirmation of the original sentence. Under that approach, intervening developments cannot meaningfully affect the outcome. That result cannot be reconciled with *Concepcion*, *Pepper*, the First Step Act, or § 1B1.13(b)(5), or what Congress intended.

Further, the intervening developments *Concepcion* requires courts to consider are not limited to legal developments; they include scientific ones as well. At the time of Petitioner's sentencing in 1993, the empirical scientific foundation for understanding how coercive indoctrination, developmental trauma, adverse childhood experiences, and cult upbringing affect cognition, judgment, and autonomous choice did not exist in any validated form. See Dr. Adeyinka Akinsulure-Smith, Psychological Evaluation of Patricia LeBaron, Exhibit I to Supplement to Motion for Reduction in Sentence, *United States v. Patricia LeBaron*,

No. H-92-177-05, at 2 (S.D. Tex. May 18, 2023) ("empirical data from the fields of neuroscience and psychology regarding brain development, the effects of cults, and the impact of adverse childhood experiences had not been established, and as such were not available for consideration"). Thirty years of scientific development that postdate the original sentencing—and that the same court found sufficient to warrant relief for a co-defendant sentenced the same year under the same conditions—are precisely the kind of intervening factual developments that *Concepcion* requires courts to engage with meaningfully. The district court's analysis did not engage with them.

Federal courts have begun applying the Sentencing Commission's 2023 amendment through differing analytical frameworks. Several circuits have emphasized the forward-looking nature of compassionate-release proceedings and the importance of individualized consideration of rehabilitation, current circumstances, and post-sentencing developments. See *United States v. McCoy*, 981 F.3d 271, 284 (4th Cir. 2020); *United States v. Maumau*, 993 F.3d 821, 834 (10th Cir. 2021); *United States v. Crawley*, 140 F.4th 165 (4th Cir. 2025). The Fifth Circuit has continued to apply a more restrictive framework, requiring circumstances that are "extraordinarily severe," "not foreseeable at the time of sentencing," and "unique to the life of the prisoner." *United States v. Austin*, 125 F.4th 688, 692 (5th Cir. 2025) (quoting *United States v. Escajeda*, 58 F.4th 184, 186 (5th Cir. 2023)).

Petitioner's circumstances satisfy even that more restrictive formulation. The district court considered evidence of a coercive upbringing and lifelong indoctrination involving threats of death, nearly four decades of rehabilitation, and a finding that Petitioner no longer poses a danger to the public. Those circumstances are plainly extraordinarily severe and unique to the life of the prisoner. And although Petitioner's upbringing and indoctrination were known at the time of sentencing, what was not foreseeable in 1993 was the scientific understanding of how such experiences affect cognition, judgment, autonomous decision-making, and development. The intervening development is not the underlying history itself, but the decades of scientific research that now permit courts to understand its significance in ways that were unavailable at the time of sentencing. The question presented is therefore not whether Petitioner's circumstances satisfy the Fifth Circuit's own standard. It is why circumstances that so plainly satisfy that standard were nevertheless held insufficient.

Absent this Court's intervention, compassionate-release review risks devolving into an empty procedural exercise in which district courts may acknowledge rehabilitation, coercive trauma, aging, and lack of danger while still giving greater weight to decades-old offense conduct. That result cannot be reconciled with Congress's purpose in the First Step Act nor with this Court's sentencing jurisprudence.

The district court itself recognized the difficulty of these decisions. After more than thirty years presiding over litigation involving this case, it acknowledged that

it had "struggled to reach the correct decisions on defendants' motions." *United States v. Barlow*, No. 4:92-CR-177-3, at 11 (S.D. Tex. Mar. 26, 2025) (sealed). If the judge most familiar with this record over three decades found the correct decision unclear under the existing framework, courts across the country facing similar § 1B1.13(b)(5) claims will face the same uncertainty—and will reach inconsistent results. That is the condition this Court exists to remedy.

II. The Fifth Circuit's Decision Illustrates the Problem

The Fifth Circuit affirmed in a two-page summary-calendar opinion that cited only *United States v. Chambliss*, 948 F.3d 691 (5th Cir. 2020), for the abuse-of-discretion standard and held that Petitioner's disagreement with the district court's weighing of the § 3553(a) factors was "not a sufficient ground for reversal." The opinion did not discuss *Concepcion*, *Pepper*, the Sentencing Commission's 2023 amendment to U.S.S.G. § 1B1.13(b)(5), or the court's own finding that Petitioner would not present a danger to the public.

That omission matters. The record before the court of appeals was substantial. It included nearly four decades of rehabilitation, evidence of lifelong coercive control—the same background the district court found extraordinary and compelling in granting relief to Patricia LeBaron—intervening scientific developments bearing on coercive indoctrination and developmental trauma, and a judicial finding that Petitioner no longer poses a danger to the public. Yet the Fifth Circuit treated the appeal as an ordinary disagreement with factor-weighting, rather

than as a legal question about whether the district court meaningfully applied the modern compassionate-release framework.

This case squarely presents whether appellate review under § 3582(c)(1)(A) requires meaningful engagement with *Concepcion*, *Pepper*, and the Sentencing Commission's amended Guideline, or whether a summary affirmance citing only deferential review satisfies the court's obligations when acknowledged intervening circumstances are treated as subordinate to decades-old offense conduct and offense-era circumstances.

III. This Court's Recent Decisions in *Fernandez* and *Rutherford* Do Not Resolve the Question Presented

This Court recently decided *Fernandez v. United States*, 608 U.S. ____ (2026), and *Rutherford v. United States*, 608 U.S. ____ (2026), both on May 28, 2026. Those decisions do not resolve the question presented here.

Fernandez held that a prisoner who collaterally attacks the validity of his conviction must proceed under 28 U.S.C. § 2255, not § 3582. Petitioner does not challenge the validity of his conviction. His claim rests entirely on present circumstances and intervening developments.

Rutherford held that nonretroactive changes in sentencing law under U.S.S.G. § 1B1.13(b)(6) cannot constitute extraordinary and compelling reasons for compassionate release. Petitioner does not invoke § 1B1.13(b)(6), rely on a change in sentencing law, or argue that subsequent legal developments render his sentence disproportionate. His claim instead arises under § 1B1.13(b)(5) and rests on documented coercive control, lifelong indoctrination, rehabilitation, and other

circumstances he contends are similar in gravity to the guideline's enumerated examples.

Notably, *Rutherford* confirmed that whether a reason is extraordinary and compelling "depends on context" and must be "sufficiently unusual and convincing to warrant compassionate release." 608 U.S. at _____. That context-dependent inquiry is precisely what Petitioner argues the courts below failed to perform. This Court's guidance remains needed on how § 3582(c)(1)(A), § 1B1.13(b)(5), *Concepcion*, and *Pepper* interact when a defendant presents substantial evidence of coercive indoctrination, rehabilitation, and other intervening developments, yet the courts continue to treat decades-old offense conduct and offense-era circumstances as controlling.

IV. The Question Presented Is Genuinely Novel Because the Controlling Legal Provision Did Not Exist Until November 2023

U.S.S.G. § 1B1.13(b)(5), as amended, did not take effect until November 1, 2023. Any petition to this Court raising the precise question of how courts must apply that provision would necessarily have been filed after that date, worked through the courts of appeals, and reached this Court only recently. This petition is among the first to present that question squarely.

The novelty of the question presented is not a weakness. It arises from the Sentencing Commission's November 2023 amendment to § 1B1.13(b)(5), and it is precisely why this Court's guidance is urgently needed before inconsistent application becomes entrenched.

The amendment is now more than two years old. Courts across the country are only beginning to develop standards governing § 1B1.13(b)(5), particularly in cases involving documented coercive control, trauma, and long-term rehabilitation. This Court has the opportunity to establish clear standards before that inconsistency hardens.

V. The Intra-Case Disparity Illustrates the Need for Guidance

The facts of the intra-case inconsistency are set out in the Statement of the Case. What those facts demonstrate legally is this: the same court, applying the same standard to materially similar circumstances, reached opposite results without a coherent legal framework explaining why. The distinctions the court drew—sexual abuse, visible role, gender, and a four-year age difference—do not supply that framework. They reflect the absence of one.

The "similar in gravity" standard in § 1B1.13(b)(5) demands more than a list of factual differences. It requires an individualized assessment of whether the defendant's total circumstances, considered together, rise to a level of gravity comparable to the provision's enumerated examples. The court did not explain how Petitioner's total circumstances, considered together, failed to rise to the level of gravity the provision requires. It identified differences from Patricia's case and stopped. That is not the "similar in gravity" standard. That is a comparison that could always find some difference, in every case, and thereby deny relief to every defendant whose circumstances are not identical to a prior grant.

The court's error was not merely substantive; it was methodological. Even apart from its failure to explain the "similar in gravity" determination, § 1B1.13(b)(5) additionally required the court to evaluate Petitioner's circumstances as a whole rather than in isolation. The provision directs courts to consider whether the defendant's circumstances are extraordinary and compelling when considered "by themselves or together with any of the reasons described in paragraphs (1) through (4)." The court never demonstrated that it performed that combinatorial analysis. Although the court quoted § 1B1.13(b)(5)'s requirement that circumstances be considered "by themselves or together with" other qualifying reasons, it never explained how Petitioner's circumstances were evaluated in combination before concluding relief was unwarranted. It did not ask whether the totality of Petitioner's circumstances, considered together rather than in isolation, rose to the level of gravity the provision requires. It analyzed each element in isolation, found each individually insufficient, and stopped. That is not the analysis § 1B1.13(b)(5) mandates. The provision's express "together with" language requires a holistic assessment of the defendant's total circumstances. The court's failure to conduct that assessment is a legal error, not a discretionary judgment.

The "visible role" distinction is particularly incoherent in light of the scientific record developed in this case. The court found that Patricia acted "while under extreme duress from the threat of death posed by the cult's practice of blood atonement." *Patricia LeBaron*, No. H-92-177-05, at 21. That same system of coercive control governed Petitioner's entire life from birth. This Court has held that

culpability turns on the capacity for autonomous choice, not the physical act performed under coercion. *Enmund v. Florida*, 458 U.S. 782, 798 (1982). Modern neuroscience confirms that chronic trauma and coercive conditioning impair the brain's capacity for autonomous decision-making well into adulthood, and that the effects of traumatic experiences during developmental years, including through one's twenties, physically alter the neural architecture governing judgment, impulse control, and cognitive control. See MacArthur Foundation Research Network on Law & Neuroscience, Adolescent Maturity and Culpability (2023 Update).

The record also reveals that the "visible role" distinction cannot bear the legal weight the court placed on it. The district court's description of the two defendants' conduct is instructive. Patricia's role was to wait while another carried out the shooting. *United States v. Barlow*, No. 4:92-CR-177-3, at 9 (S.D. Tex. Mar. 26, 2025) (sealed). Petitioner's role was to proceed to a designated location, wait, and shoot. *Id.* at 8-9. That description establishes a difference in physical role, but it does not establish a difference in autonomy. Both occupied specific roles within the same coercive structure. Both went to their respective locations and carried out their respective roles. The difference between their conduct was not a difference in autonomy; it was a difference in role. Both acted pursuant to directives issued within the same coercive hierarchy the court found operated through blood atonement and threats of death, a system that conscripted its own members as both instruments and potential victims of the same violence. See *Patricia LeBaron*, No. H-92-177-05, at 21.

Petitioner's physical act was not evidence of independent criminal initiative or autonomous leadership; it was the execution of a directive within that coercive hierarchy. The district court's own description of Petitioner's conduct illustrates the point. That description establishes Petitioner's direct participation in the offense. It does not answer the separate question presented here: how courts should evaluate conduct carried out within a system of lifelong coercion, indoctrination, and threatened violence when applying § 1B1.13(b)(5). Under *Enmund v. Florida*, 458 U.S. 782, 798 (1982), culpability turns on the capacity for autonomous choice, not the physical act performed under coercion. The distinction between a role that required waiting and a role that required shooting is a distinction in assignment, not in autonomy. That analytical failure is the same failure at the core of the court's broader "similar in gravity" analysis: it identified a factual difference and stopped, without asking the legal question § 1B1.13(b)(5) requires—whether Petitioner's specific act reflected autonomous choice or conduct under coercion.

The science underlying this analysis was developed and applied directly to this family's environment. Dr. Akinsulure-Smith applied five areas of scientific research—neuroscience of brain development through early adulthood, adverse childhood experiences, the specific effects of being raised in a religious cult, polyvictimization, and Complex PTSD—to assess the LeBaron family's coercive environment. See Psychological Evaluation of Patricia LeBaron (2023), cited in *Patricia LeBaron*, No. H-92-177-05 (S.D. Tex. Nov. 6, 2023). She concluded that children raised in that environment experienced trauma "that would prevent

adequate development of the frontal areas of the brain involved in cognitive control and social information processing," producing "poor independent decision making, lack of social information processing, [and] lack of cognitive control." *Id.* Her report further established that traumatic experiences throughout the developmental window, including well into one's twenties, physically alter the brain's judgment systems in ways that continue to affect autonomous decision-making long after the experiences themselves have ended.

The research specifically found that children raised in cults fare worse neurologically and developmentally than adults who join voluntarily, because the cult personality does not overlay a prior independent identity; it becomes the identity. As Judith Herman observed in her foundational work on trauma: "Repeated trauma in adult life erodes the structure of the personality already formed, but repeated trauma in childhood forms and deforms the personality." Herman, J., *Trauma and Recovery: The Aftermath of Violence from Domestic Abuse to Political Terror* 96 (Basic Books 1997), quoted in Supplement to Motion for Reduction in Sentence, *United States v. Patricia LeBaron*, No. H-92-177-05, at 30 (S.D. Tex. May 18, 2023). This distinction is particularly relevant where, as here, the individual was born into the coercive environment rather than entering it after an independent identity had already formed.

Petitioner was born into this environment and subjected to its conditions for the entirety of his developmental years through age 27. More years of that environment, not fewer, means greater neurological impairment. See Psychological

Evaluation of Patricia LeBaron (2023), cited in *United States v. Patricia LeBaron*, No. H-92-177-05 (S.D. Tex. Nov. 6, 2023). The report further established that the developmental consequences of such lifelong trauma were not a moral failing or a stubborn refusal to do what was right, but a profound physiological issue of brain function, understanding, and judgment, and not something that could be turned off like a switch. *Id.*

The most important legal point is not that Patricia was 23 and Petitioner was 27. It is that the science the district court relied upon concerns developmental trauma accumulated throughout the developmental years and its effect on autonomy, judgment, and cognitive control. Nothing in that science suggests that four additional years of age erase the developmental consequences of lifelong coercive indoctrination. The district court's use of Petitioner's slightly older age and male gender as evidence of greater capacity to appreciate wrongfulness cannot be reconciled with the scientific record developed in this very case.

This is not an argument that Petitioner's result should have matched Patricia's. It is an argument that courts applying § 1B1.13(b)(5) to claims involving coercive control, indoctrination, developmental trauma, rehabilitation, and other extraordinary post-sentencing circumstances currently lack coherent standards, producing results that cannot be reconciled even within the same case, before the same judge, on materially similar facts. That is precisely the condition that warrants this Court's guidance.

VI. The § 3553(a) Analysis Below Cannot Be Reconciled with *Concepcion* and *Pepper*'s Requirement of Forward-Looking Review

The district court's analysis effectively froze Petitioner at 1988, giving greater weight to offense-era circumstances than to nearly four decades of intervening rehabilitation, transformation, and acknowledged lack of public danger. Petitioner does not ask this Court to reweigh the § 3553(a) factors. He asks this Court to hold that *Concepcion* and *Pepper* mean what they say—that sentence-modification review under 18 U.S.C. § 3582(c)(1)(A) must reflect the defendant's present circumstances, not a decades-old snapshot of offense conduct committed under severe coercion and duress.

Section 3582(c)(1)(A) exists because Congress recognized that circumstances change over time. The purpose of sentence-modification review is to determine whether continued imprisonment remains justified under current facts, current law, and current circumstances—not merely to reaffirm a sentence imposed decades earlier. Under the framework employed below, no amount of rehabilitation, transformation, aging, diminished risk, or evidence of severe coercive trauma can meaningfully alter the outcome once the original sentencing framework is permitted to remain controlling. That approach transforms compassionate-release review into a mechanical perpetuation of the original judgment regardless of intervening developments.

The district court's own findings illustrate the problem. The court recognized that Petitioner had long ago disassociated himself from the religious clan and disavowed its teachings. The cult itself ceased to exist in the early 1990s. As family

members who lived within it have attested, it completely disintegrated, and none of its former members, including Petitioner, remained adherents of its ideology in any form. The specific conditions that gave rise to the offenses no longer exist.

Nor does the individual who committed those offenses exist in the same form. Petitioner is now 65 years old and, after nearly four decades of peaceful, productive, and documented rehabilitation, presents essentially no recidivism risk. The district court itself found that he no longer poses a danger to the public. Yet the court continued to treat offense conduct and offense-era circumstances as the controlling measure of whether continued imprisonment remained necessary.

The court's § 3553(a)(1) analysis further illustrates that backward-looking approach. It relied on Petitioner's prior convictions—automobile theft in Phoenix and burglary of a motor vehicle in Houston, both in 1988. *United States v. Barlow*, No. 4:92-CR-177-3, at 10 (S.D. Tex. Mar. 26, 2025) (sealed). Those convictions, like the offense conduct underlying the instant case and other conduct considered by the court that occurred in 1988 or earlier, arose while Petitioner remained fully subject to the cult's coercive control. The court found those same conditions sufficient to constitute "extreme duress from the threat of death" for Patricia's 1988 offenses. It cannot simultaneously treat offense-era coercion as mitigating for one defendant while treating conduct produced by those same conditions as independent evidence of bad character for another. Offense-era conduct produced by offense-era coercive conditions is not an independent aggravating factor; it is part of the same historical

snapshot the court relied upon in denying relief. That is the circularity this case presents.

This reliance on historical circumstances also appears in the court's treatment of the original sentence itself. Congress expanded § 3582(c)(1)(A) to permit courts to consider whether extraordinary and compelling circumstances justify a reduction in previously imposed sentences, including mandatory life sentences. Yet the court repeatedly relied upon the original mandatory life sentence and offense-era circumstances as reasons to deny relief. Among the § 3553(a) factors the court cited against release was § 3553(a)(4): "The applicable sentencing statute requires mandatory life sentences for both defendants." *United States v. Barlow*, No. 4:92-CR-177-3, at 9–10 (S.D. Tex. Mar. 26, 2025) (sealed). Using the mandatory sentence as a reason to preserve the mandatory sentence is circular. Under that logic, no defendant serving a mandatory life sentence could ever obtain compassionate release, because the mandatory guideline range would always counsel against reduction. That cannot be reconciled with the framework Congress created. If the existence of the original mandatory sentence may itself become a controlling justification for preserving that sentence, the forward-looking review that § 3582(c)(1)(A), *Concepcion*, and *Pepper* demand becomes largely formal rather than substantive.

The court's § 3553(a)(2) analysis illustrates the same problem. The court concluded that Petitioner's life sentence remains "necessary" to reflect the seriousness of the offense, promote respect for the law, provide just punishment,

and afford adequate deterrence. *United States v. Barlow*, No. 4:92-CR-177-3, at 11 (S.D. Tex. Mar. 26, 2025) (sealed). Yet that conclusion was reached after the court acknowledged decades of rehabilitation, a complete repudiation of the ideology that led to the offenses, and a finding that Petitioner no longer poses a danger to the public. A sentence deemed permanently "necessary" despite those significant intervening developments leaves little room for the forward-looking review that § 3582(c)(1)(A), *Concepcion*, and *Pepper* demand.

Concepcion held that district courts must consider "intervening legal and factual developments." 597 U.S. at 490. *Pepper* held that sentencing decisions must reflect "the most up-to-date picture of the defendant's history and characteristics." 562 U.S. at 491. A court that finds a defendant poses no danger to the public, yet continues to justify his imprisonment primarily by reference to decades-old offense conduct and offense-era circumstances, has applied the § 3553(a) factors to a historical snapshot that no longer reflects the defendant before it. That approach is difficult to reconcile with *Pepper*'s requirement that sentencing decisions reflect the most up-to-date picture of the defendant's history and characteristics, or with *Concepcion*'s instruction that courts consider intervening legal and factual developments.

The government may argue that the district court's factor-weighting is entitled to deference. But the question presented is not whether this Court should reweigh the factors. It is whether a court satisfies its obligations under 18 U.S.C. § 3582(c)(1)(A), *Concepcion*, *Pepper*, and § 1B1.13(b)(5) when it continues to treat

decades-old offense conduct and offense-era circumstances as controlling, notwithstanding decades of rehabilitation, a finding of no public danger, and evidence of a coercive upbringing and indoctrination. That is a legal question about the meaning of compassionate-release review, the force of intervening developments, and the standards governing § 1B1.13(b)(5), not a factual dispute about factor-weighting in any particular case.

CONCLUSION

This case presents a fundamental question about the integrity of modern compassionate-release review. Petitioner has spent nearly four decades in federal prison, peacefully and productively, demonstrating the rehabilitation and transformation that § 3582(c)(1)(A) was designed to recognize. The district court found that Petitioner no longer poses a danger to the public. It recognized that he had spent more than thirty years in prison, admitted his guilt, and completely disassociated himself from the cult organization and its ideology. The court also considered evidence of a severely coercive upbringing and lifelong indoctrination of the kind the Sentencing Commission's 2023 amendment to § 1B1.13(b)(5) was intended to address. Yet it continued to treat offense conduct and offense-era circumstances from nearly forty years ago as controlling, even though the same court had found materially similar evidence of coercive indoctrination, coercive control, and extreme duress sufficient to release a co-defendant one year earlier.

This Court's recent decisions in *Fernandez v. United States*, 608 U.S. ____ (2026), and *Rutherford v. United States*, 608 U.S. ____ (2026), resolved important but

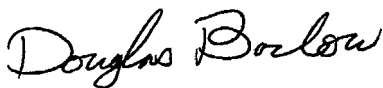
distinct questions about the limits of § 3582. They did not resolve the question presented here: whether courts satisfy their obligations under 18 U.S.C. § 3582(c)(1)(A), *Concepcion v. United States*, *Pepper v. United States*, and U.S.S.G. § 1B1.13(b)(5) when they acknowledge decades of rehabilitation, findings that the defendant no longer poses a danger to the public, and substantial evidence of a coercive upbringing and indoctrination involving threats of death, yet continue to treat decades-old offense conduct and offense-era circumstances as controlling. That question remains open. Every day it goes unanswered, defendants who present extraordinary intervening circumstances, substantial rehabilitation, and findings of no danger may receive the appearance of compassionate-release review—but not its substance—while decades-old offense conduct and circumstances continue to control the outcome.

Petitioner respectfully requests that this Court grant the writ of certiorari.

DECLARATION

I, Douglas Lee Barlow, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing statements in this Petition for Writ of Certiorari are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,



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