No. _____

In the

Supreme Court of the United States

Charles E. Baker, III,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

MOTION FOR EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

Charles Edwardson Baker III
Reg. No. 06976-003
FCI Lompoc (Camp)
3705 West Farm Road
Lompoc, CA 93436

Pro se

RECEIVED
NOV 13 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and as Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

Petitioner Charles Edwardson Baker, III, proceeding *pro se*, respectfully requests that the time for him to file a petition for writ of certiorari or for issuance of a certificate of appealability in this matter be extended for 62 days from Wednesday, November 18, 2026, to Tuesday, January 19, 2027 (the 60th day after November 18, 2026, being Saturday, January 16, 2027, and the first business day thereafter being Tuesday, January 19, 2027).

The Court of Appeals issued an order denying rehearing on his appeal of a district court denying a motion for sentence reduction under 18 U.S.C. § 3582(c)(1)(B), seeking application of § 404 of the *First Step Act*. The district court denial is attached as Appendix A. The decision of the U.S. Court of Appeals for the 11th Circuit is attached as Appendix B. His motion for rehearing filed pursuant to *F.R.App.P.* 40 was denied on August 20, 2026, and is attached as Appendix C.

Petitioner's petition for relief from this Court therefore would be due on November 18, 2026, absent an extension. He is filing this application at least ten days before that date.

The Court has jurisdiction over the judgment under 28 U.S.C. § 1254(1).

Twenty-seven years ago, a jury in the Southern District of Alabama found Petitioner guilty of two crack cocaine offenses. After completing a 236-

month sentence and while serving a term of supervised release, Petitioner was charged and convicted in the United States District Court for the District of Arizona in Case No. 2:17-cr-00834. That conduct resulted in revocation of Petitioner's term of supervised release in the Southern District of Alabama.

The U.S. District Court for the Southern District of Alabama sentenced Defendant to serve 60 months in prison in the revocation proceeding and ordered the sentence to run consecutively to the sentence in the District of Arizona. Subsequently, Petitioner filed a motion for a reduction of the revocation sentence that referenced Section 404 of the *First Step Act* ("*Motion*"). The District Court construed Petitioner's *Motion* as a request for retroactive application of USSG Amendment 821 and denied it.

Petitioner appealed, and the 11th Circuit vacated the denial and remanded the matter. *United States v. Baker*, Case No. 24-11144, 2024 U.S. App. LEXIS 29674 (11th Cir. Nov. 21, 2024). On remand, the District Court again denied the *Motion.* Appendix A. The 11th Circuit affirmed the denial. *United States v. Baker*, Case No. 25-12494, 2026 U.S. App. LEXIS 18188 (11th Cir. June 23, 2026). Appendix B. Subsequently, the 11th Circuit denied a timely-filed petition for rehearing. *United States v. Baker*, No. 25-12494, 2026 U.S. App. LEXIS 25341 (11th Cir. Aug. 20, 2026) (attached as Appendix C.

The time to file a petition for a writ of certiorari should be extended for 63 days for the following reasons:

1. Petitioner, as in incarcerated *pro se* litigant, who is employed full time in an off-facility position that severely limits his time to prepare and file legal materials.

2. Petitioner's arguments in favor of grant of the § 404 *Motion* were completely miscast by the District Court as issues that had nothing to do with an 18 U.S.C. § 3553(a) analysis. Where a District Court misunderstands a Petitioner's arguments, can its summary statement that "even if Baker met his burden above — which he did not — then the Court may also consider the sentencing factors in 18 U.S.C. § 3553(a) when deciding whether to exercise its discretion in whether or not to grant the motion. In this case, the sentencing factors clearly do not favor granting Baker any relief" fairly be credited?

By extending the date for the petition in this case, the Court is more likely to have the benefit of analysis of the foregoing opinions when deciding whether to grant a petition.

An extension will not prejudice Respondent. Petitioner is currently incarcerated and will continue to serve his sentence until a final favorable decision in this matter after any remand that may be ordered.

For the foregoing reasons, the Court should extend the time to file a petition for a writ of certiorari in this appeal by 63 days, to and including Tuesday, January 19, 2027.

Executed November 2, 2026



Charles Edwardson Baker III
Reg. No. 06976-003
FCI Lompoc (Camp)
3705 West Farm Road
Lompoc, CA 93436

APPENDIX 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	**CRIM. ACT. NO. 1:98-cr-44-TFM**
	)	
CHARLES BAKER, III	)	

ORDER

Pending before the Court are a *pro se Motion to Modify a Term of Imprisonment, Pursuant to 18 U.S.C. § 3582(c)(1)(B)* (Doc. 131, filed 1/16/24), the *United States' Response in Opposition* (Doc. 149, filed 5/12/25), and the *Defendant's Reply to United States' Response in Opposition* (Doc. 153, filed 6/10/25). Having reviewed the relevant documents and the case file, the motion (Doc. 131) is **DENIED**.

I. PROCEDURAL HISTORY

The Court file reflects that on July 23, 1998, Defendant Charles Baker, III ("Baker" or "Defendant") was convicted by a jury of conspiracy to possess with intent to distribute 970.5 grams of cocaine base and possession with intent to distribute cocaine base. *See* Docs. 16, 58, 63, 144. On October 19, 1998, Baker received a sentence of 294-months imprisonment to be followed by 5 years of supervised release. *See* Doc. 63. On July 21, 2008, Baker was granted a sentence reduction under 18 U.S.C. 3582(c)(2) pursuant to an earlier amendment in the United States Sentencing Guidelines ("the cocaine crack amendments") which then reduced his sentence to 236 months of imprisonment. *See* Doc. 86. On September 19, 2014, Baker began serving his term of supervised release. *See* Doc. 92. On May 4, 2017, Baker was arrested in Arizona (despite his supervision and requirement out of the Central District of California) for possession of 35 pounds of methamphetamine. *See* Doc. 95. On May 10, 2017, Baker filed a *pro se* motion to terminate

his supervised release asserting that "my conduct since release personifies change, cooperation, and absolute compliance." Doc. 92 at 3. The request was denied on May 23, 2017 stating, "For a host of reasons including, but not limited to, Defendant's new arrest on drug charges, the motion is DENIED." Doc. 93. Revocation proceedings were initiated on June 15, 2017. *See* Doc. 95. On June 20, 2017, Baker was indicted in the United States District Court for the District of Arizona. *See* Doc. 105. He was charged in two counts for conspiracy to possess with the intent to distribute 500 grams or more of a mixture of methamphetamine in violation of 21 U.S.C. § 846 (Count One) and possession with intent to distribute 500 grams or more of a mixture of methamphetamine in violation of 21 U.S.C. § 841. On October 2, 2018 Baker pled guilty in Arizona to count one and subsequently received a sentence of 210-months imprisonment and 5 years of supervised release. *See United States v. Charles Baker, III*, Crim. Act. No. 2:17-cr-834-DJH (D. Ariz.), Docs. 87, 171, 174.

On January 20, 2020, after considering the evidence presented in the revocation hearing, this Court revoked the term of supervised release and imposed 60 months of imprisonment to run consecutive to the Arizona sentence. *See* Doc. 114. On July 19, 2021, the revocation sentence in this case was affirmed on appeal. Doc. 129.

On July 2, 2020, Baker filed in the Arizona case a motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A) relating to Covid-19. *Baker*, Crim. Act. No. 2:17-cr-834, Doc. 206; *see also* Doc. 208 (reconsideration supplement). He then filed another motion on September 1, 2020. *Id.*, Doc. 213. The motions were denied on October 21, 2020. *Id.*, Doc. 224. On February 15, 2024, he filed a new motion for a reduction of sentence pursuant to Amendment 821 which was joined by the United States on March 28, 2024. *Id.*, Docs. 226, 227. On April 2, 2024, that motion was granted and the Arizona sentence was reduced to a term of imprisonment of 188 months

followed by the 5 years of supervised release. *Id.*, Doc. 228.

On January 16, 2024, Baker filed the instant *pro se Motion to Modify a Term of Imprisonment, Pursuant to 18 U.S.C. § 3582(c)(1)(B)* (Doc. 131). On March 5, 2024, the Court initially construed the request as one brought under § 3582(c)(2) ("Amendment 821") and denied the request for a reduction because Baker was ineligible for such relief. Defendant appealed the decision arguing that it should have been considered under Section 404 of the First Step Act. On November 21, 2024, the Eleventh Circuit remanded the matter to this Court because the ruling did not analyze the claim under the First Step Act but did not express an opinion as to the merits of the reduction request.

After remand, the Court ordered the United States to file its response to the original motion. Doc. 148. The United States filed its response in opposition on May 12, 2025. Doc. 149. After the Court granted an extension, Baker filed his reply on June 10, 2025. Doc. 153.

Baker is confined in the Federal Correction Institution Lompoc II in Lompoc, California and has an estimated release date of March 10, 2034. *See* https://www.bop.gov/inmateloc/ (last accessed July 8, 2025).

II. DISCUSSION AND ANALYSIS

Once a sentence is imposed, the "authority of a district court to modify an imprisonment sentence is narrowly limited by statute." *United States v. Phillips*, 597 F.3d 1190, 1194-95 (11th Cir. 2010); *United States v. Shaw*, 711 F. App'x. 552, 554-55 (11th Cir. 2017) (same). Specifically, the district court may not modify a term of imprisonment once it has been imposed except as set out in 18 U.S.C. § 3582(c). *See United States v. Pubien*, 805 F. App'x 727, 729 (11th Cir. 2020) (citing 18 U.S.C. § 3582(c)).

A. First Step Act – 18 U.S.C. § 3582(c)(1)(B)

18 U.S.C. § 3582(c)(1)(B) states "[t]he court may not modify a term of imprisonment once it has been imposed except that—" . . . "the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure. . ."

In 2018, Congress made retroactive the changes on drug quantities referenced in the Fair Sentencing Act. First Step Act of 2018, § 404, Pub. L. 115-391, 132 Stat. 5194, 5222 (2018). A court may "impose a reduced sentence as if" the Fair Sentencing Act quantities "were in effect at the time the covered offense was committed." *Id.* at § 404(b). "Because a period of supervised release is simply a part of the sentence for the underlying conviction," a revocation sentence "is eligible for a sentence reduction under § 404(b) of the First Step Act when the underlying crime is a covered offense within the meaning of the Act." *United States v. Gonzalez*, 71 F.4th 881, 884–85 (11th Cir. 2023) (citations omitted). A court may consider intervening changes of law and fact when considering whether to reduce a sentence. *Concepcion v. United States*, 597 U.S. 481, 500 (2022). But "*Concepcion* did not hold that First Step Act movants could relitigate their cases from the ground up" and they "may not use a First Act proceeding to relitigate a drug quantity finding." *United States v. Jackson*, 58 F.4th 1331, 1337 (11th Cir. 2023). Moreover, the Court may consult the factors in 18 U.S.C. § 3553(a). *United States v. Potts*, 997 F.3d 1142, 1145 (11th Cir. 2021).

The Court finds that Baker is eligible for a reduction to his revocation sentence pursuant to the First Step Act as his crack distribution offenses were covered offenses because he was subject to the penalty provisions in § 841(b)(1)(A)(iii) at the time of sentencing. Though this is a revocation sentence, it does flow as part of the sentence from the original conviction. *Gonzalez*, 71 F.4th at 884-85. But the analysis does not end with eligibility, the Court still has discretion on

whether to make such a reduction. *Id.* at 885 ("Eligibility, of course, is not the end of the matter."). "§ 404(b) of the First Step Act authorizes district courts to reduce the sentences of defendants with covered offenses but does not require them to do so." *Id.* (citations omitted).

Baker raises three main grounds to challenge his 60-month revocation sentence. The Court will address each in turn.

First, Baker argues he has 53 months "banked time" which should have been applied toward his revocation sentence. Baker derives his 53 month figure by subtracting the 198 months he served after being granted a sentence reduction because of the crack amendments and 145 months which is the midpoint of the sentencing range taking into account all of the purported changes to the guidelines as calculated by Baker. Even assuming Baker's calculations are correct, the Court rejects the notion that Baker is due any credit inasmuch the statutory maximum sentence was not less than 10 years of imprisonment no more than life. Doc. 81. In the view of the Court the argument is moot, since Baker completed his custodial sentence before any of the changes he argues militate in his favor. Indisputably, the Arizona offense arose during his period of supervised release thus Baker was subject to revocation of his term of supervision.

Next, Baker argues his sentence was procedurally unreasonable. Baker took a direct appeal from the Revocation sentence. Doc. 115. The Circuit already held the sentence was not procedurally unreasonable. Doc. 129. The Court is not required to entertain arguments that were already raised and rejected. Moreover, the Court does not find the sentence to be procedurally unreasonable. Rather, the Court finds that this sentence served the purpose to sanction Baker for the breach of the trust (for the Court, probation, and society as a whole) and to address the criminal conduct committed while on supervised release (both the significant drug offenses and the attempt to flee when caught).

Finally, Baker argues that had the District Court in Alabama held the revocation hearing prior to his guilty plea and sentencing in Arizona, he would have received a more lenient revocation sentence. Baker's argument is pure speculation. What is not speculative is the undersigned was the one to impose the revocation sentence and all of the arguments made by Baker in the instant motion would not have changed the outcome. The Court intentionally ran the sentence to be consecutive to his Arizona sentence and the Court finds that it would not have imposed a more lenient sentence had the revocation hearing been held sooner. Further, the Court held hearing on July 25, 2017 at which Defendant appeared with counsel for a supervised release revocation proceeding. *See* Doc. 103. Defendant did not sign a waiver for the hearing and the United States orally moved for a continuance based upon the pending indictment in Arizona. The Court granted the motion to continue the revocation hearing indefinitely, pending disposition of the new federal charges. *Id.* There is no indication that Defendant objected to the motion or the order. Additionally, the Court finds that due to the pending charges in Arizona, holding the hearing sooner would have likely hampered Baker's defense as any evidence and testimony could also be used in the ongoing criminal proceedings. Therefore, the defense in the revocation proceedings would have been limited under those circumstances.

The Court finds that even if Baker met his burden above – which he did not – then the Court may also consider the sentencing factors in 18 U.S.C. § 3553(a) when deciding whether to exercise its discretion in whether or not to grant the motion. In this case, the sentencing factors clearly do not favor granting Baker any relief.

Nothing persuasive before the Court justifies or permits a lesser sentence. Not only did Baker disregard the law by continuing to engage in narcotics trafficking while under supervision but Baker asked the Court to terminate his supervision early because of his compliance with the

terms of supervision and rehabilitation. (Doc. 92, filed 5/17/17). In fact, he filed the motion to terminate his supervision early mere days after his arrest and outright lied to the Court about his "good" behavior when he was well aware of his arrest less than a week before the date on the motion.

Therefore, based on the above, the Court finds that under 18 U.S.C. § 3582(c)(1)(B), the Court declines to exercise its discretion to reduce the revocation sentence.

B. Amendment 821

Out of an abundance of caution, the Court analyzes this matter again under Amendment 821 with more discussion.

Again, the "authority of a district court to modify an imprisonment sentence is narrowly limited by statute." *Phillips*, 597 F.3d at 1194-95. 18 U.S.C. § 3582(c)(2) allows the court to reduce the defendant's term of imprisonment if the defendant "has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission." 18 U.S.C. § 3582(c)(2). The Court may exercise its discretion, "after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." *Id.*

Effective November 1, 2023, the United States Sentencing Commission enacted Amendment 821 to the United States Sentencing Guidelines. The Amendment operates to reduce criminal history points and status points in specified circumstances. Amendment 821 revised the guidelines applicable to the calculation of criminal history category with respect to offenders who earned status points based on the commission of an offense while serving a criminal justice sentence ("Part A"), and to the calculation of offense level for offenders who had zero criminal history points at the time of sentencing ("Part B"). The Commission has deemed that Part A and

Part B Subpart 1 of the Amendment apply retroactively. *See* U.S.S.G. § 1B1.10(d). Therefore, pursuant to 18 U.S.C. § 3582(c)(2), the Court is empowered to reduce defendant's sentence under these circumstances. *See generally United States v. Armstrong*, 347 F.3d 905, 909 (11th Cir. 2003) ("amendments claimed in § 3582(c)(2) motions may be retroactively applied *solely* where expressly listed under § 1B1.10(c).")[1] (emphasis in original). The Court has discretion to decide whether to reduce a sentence and to what extent. *United States v. Williams*, 557 F.3d 1254, 1257 (11th Cir. 2009).

Under § 3582(c)(2), the Court must undertake a two-step process to determine whether a final sentence should be modified based on an original sentencing range that appears to have been subsequently lowered by the Sentencing Commission. *See Dillon v. United States*, 560 U.S. 817, 825-26 (2010); *see also United States v. Sawyer*, 853 F. App'x 578, 579 (11th Cir. 2021) (citation omitted) (requiring two-part analysis in considering a § 3582(c)(2) motion).

> First, the district court must determine "a new base level by substituting the amended guideline range for the originally applied guideline range, and then using that new base level to determine what ultimate sentence it would have imposed." *United States v. Bravo*, 203 F.3d 778, 780 (11th Cir. 2000)). During this first step, only the amended guideline is changed, and all other guideline-application decisions made during the original sentencing remain intact. *Id.* Second, the district court must decide "whether, in its discretion, it will elect to impose the newly calculated sentence under the amended guidelines or retain the original sentence." *Id.* at 781. For the second step, "the court must consider the factors listed in § 3553(a) and determine whether or not to reduce the defendant's original sentence." *United States v. Vautier*, 144 F.3d 756, 760 (11th Cir. 1998).

Sawyer, 853 F. App'x at 579.

Defendant moves for a retroactive reduction by asserting seemingly under the First Step Act only. But as he does reference revised Guidelines, the Court also looks to Amendment 821.

Defendant is currently serving a sentence pursuant to a revocation of supervised release.

[1] Section 1B1.10(c) was renumbered as § 1B1.10(d) by Amendment 782.

Pursuant to U.S.S.G. §1B1.10, Commentary, Application Note 8(A), only a term of imprisonment imposed as part of the original sentence is authorized to be reduced under Amendment 821.

Yet even if Defendant were eligible for a sentence reduction, the Court finds such a reduction is not warranted. In addition to the first step, the Court must also consider whether to use that discretion to reduce the sentence to include the factors identified in 18 U.S.C. § 3553(a), public safety considerations, and post-sentencing conduct. *See* U.S.S.G. § 1B1.10, Commentary Note 1(B)(i)-(iii). In the case at hand, as previously noted, Baker committed his new drug offenses while on supervised release. The amount of drugs was significant, and Baker attempted to flee when law enforcement attempted to arrest him. He then lied to the Court by submitting a motion for early termination of supervised release purporting that he was a model citizen adhering to conditions of release when he absolutely knew that mere days beforehand he had been arrested in Arizona. The custodial sentence Defendant now serves is still warranted to further the ends of sentencing. 18 U.S.S.C. §3553(a).

The Court has reviewed Defendant's motion, the Preliminary Report and Eligibility and the Presentence Report prepared by the United States Probation Office, and the docket. The Court first finds that Defendant is not eligible for a reduction under Amendment 821. However, in the alternative, even if he were, the Court considered all relevant factors under U.S.S.G. §1B1.10 and Application Note 1(B) and finds that a reduction is not warranted in this action. Therefore, the Court would decline to exercise its discretion. The original 60-month revocation sentence imposed remains sufficient to reflect the seriousness of the offense, promote respect for the law, provide adequate deterrence to criminal conduct, and protect the public from further crimes of the Defendant. 18 U.S.C. §§ 3553(a)(2)(A), (a)(2)(B), and (a)(2)(C).

III. CONCLUSION

For the foregoing reasons, whether considered under the First Step Act or Amendment 821, the *pro se Motion to Modify a Term of Imprisonment, Pursuant to 18 U.S.C. § 3582(c)(1)(B)* (Doc. 131) is **DENIED**.

DONE and **ORDERED** this 11th day of July, 2025.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE

APPENDIX 2

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-12494

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES BAKER, III,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:98-cr-00044-TFM-2

JUDGMENT

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court.

Entered: June 23, 2026

For the Court: DAVID J. SMITH, Clerk of Court

NOT FOR PUBLICATION

In the United States Court of Appeals For the Eleventh Circuit

No. 25-12494
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES BAKER, III,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:98-cr-00044-TFM-2

Before LUCK, LAGOA, and ANDERSON, Circuit Judges.

PER CURIAM:

Charles Baker, III, proceeding pro se, appeals the district court's denial of his motion for a sentence reduction pursuant to § 404(b) of the First Step Act after its imposition of a 60-month

prison sentence following the revocation of his supervised release. He argues that the court abused its discretion because it failed to consider his entire record of post-offense conduct and gave significant weight to improper or irrelevant factors.

We review a district court's denial of an eligible movant's request for a reduced sentence under the First Step Act for an abuse of discretion. *United States v. Jackson*, 58 F.4th 1331, 1335 (11th Cir. 2023). "Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed." *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (italics omitted).

The Fair Sentencing Act of 2010 amended 21 U.S.C. §§ 841(b)(1), 960(b) to reduce the sentencing disparity between offenses involving crack cocaine and those involving powder cocaine. Pub. L. 111-220, 124 Stat. 2372, §§ 2, 3. Section 404 of the First Step Act made retroactive provisions of the Fair Sentencing Act that increased the amount of crack cocaine required to trigger higher mandatory minimums. *See* First Step Act § 404(b).

Section 404 of the First Step Act allows a court to impose a reduced sentence as if the Fair Sentencing Act were in effect at the time the covered offense was committed. *Id.* Under § 404, a prisoner may file a motion for a sentence reduction with the sentencing court. *Id.* A movant is eligible for a sentence reduction pursuant to § 404 if he was sentenced for a "covered offense;" that is, if he was convicted of an offense involving crack cocaine that triggered the penalties in 21 U.S.C. § 841(b)(1)(A)(iii) or (B)(iii). *United*

States v. Gonzalez, 71 F.4th 881, 884 (11th Cir. 2023); *see also Terry v. United States*, 593 U.S. 486, 492-93 (2021) (detailing the offenses triggering eligibility for sentence reductions under the First Step Act).

However, "§ 404(b) of the First Step Act authorizes district courts to reduce the sentences of defendants with covered offenses but does not require them to do so." *Gonzalez*, 71 F.4th at 885. When reviewing a district court's decision regarding the reduction of a sentence pursuant to the First Step Act, we recognize that courts have "a range of choice as long as the choice does not constitute a clear error of judgment." *Id.* (quotation marks omitted).

We have held that, "[b]ecause a period of supervised release is simply a part of the sentence for the underlying conviction," a revocation sentence "is eligible for a sentence reduction under § 404(b) of the First Step Act when the underlying crime is a covered offense within the meaning of the Act." *Id.* at 884-85 (quotation marks omitted).

In *Concepcion*, the Supreme Court held that "the First Step Act allows district courts to consider intervening changes of law or fact in exercising their discretion to reduce a sentence pursuant to the First Step Act." *Concepcion v. United States*, 597 U.S. 481, 500 (2022). The Supreme Court noted in *Concepcion* "that when deciding a First Step Act motion, district courts bear the standard obligation to explain their decisions and demonstrate that they considered the parties' arguments." *Id.* at 500-01. That said, "a district court is not required to be persuaded by every argument parties make, ... [n]or is a district court required to articulate anything

more than a brief statement of reasons." *Id.* at 501. We do not take a court's failure to discuss certain mitigating evidence to mean "that the court erroneously ignored or failed to consider this evidence in determining" a sentence. *United States v. Amedeo*, 487 F.3d 823, 833 (11th Cir. 2007) (quotation marks omitted).

Section 3553(a) lists the factors that a court must consider when fashioning a sentence. 18 U.S.C. § 3553(a). Courts must consider the following factors: (1) the defendant's characteristics and the nature and circumstances of his offense; (2) the need for the sentence to reflect the seriousness of the offense, promote respect for the law, provide just punishment, deter future criminal conduct, protect the public, and provide the defendant with needed training or care; (3) the types of sentences available; (4) the types and lengths of sentences established for the category of offense and, in the case of a violation of supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission; (5) pertinent policy statements; (6) the need to avoid unwarranted sentencing disparities; and (7) the need to provide victims of the offense with restitution. *Id.*

District courts are "not statutorily required to consider the § 3553(a) sentencing factors in exercising its discretion under . . . the First Step Act." *United States v. Stevens*, 997 F.3d 1307, 1318 (11th Cir. 2021). However, courts "may consider the § 3553(a) factors, as well as the probation office's submissions, post-sentence rehabilitation, post-imprisonment rehabilitation, or any other relevant facts and circumstances." *Id.* Because a district

court is not required to address the § 3553(a) factors, its "alternative exercise of discretion in denying a First Step Act motion can suffice for affirmance," so "long as it is not ambiguous." *Gonzalez*, 71 F.4th at 885.

Here, because Baker's original offense was a "covered offense," he is eligible for a sentence reduction under the First Step Act. *See Gonzalez*, 71 F.4th at 884; *Terry*, 593 U.S. at 492-93. However, the district court was authorized to use its discretion to decide whether to grant Baker's motion, and, consequently, whether to shorten his revocation sentence. *See Gonzalez*, 71 F.4th at 884-85. In the denial order issued by the district court, the court explained its reasoning, explaining that the sentence served the purposes of sanctioning Baker for his breach of trust and criminal conduct while under supervision, and it explicitly stated that the § 3553(a) factors did not favor relief. It also noted that it would have imposed a 60-month prison term regardless of whether the revocation hearing had been held before or after Baker's conviction in the District of Arizona. Though Baker argues that the district court's order did not make clear that it had considered his arguments in mitigation, the court specifically noted that it had considered Baker's motion, the government's response in opposition, and Baker's reply when deciding whether to grant the motion. The district court's reasoning satisfies *Concepcion*'s requirement that courts show that they considered the parties' arguments and explain their reasoning, particularly considering that courts are not "required to articulate anything more than a brief statement of reasons." *Concepcion*, 597

U.S. at 500-01. Further, a court's failure to mention certain arguments in mitigation does not suggest that the court failed to address them. *See Amedeo*, 487 F.3d at 833. The court considered his arguments and determined that the relevant factors did not support a sentence reduction, and it was within its discretion to do so. *See Stevens*, 997 F.3d at 1318; *Concepcion*, 597 U.S. at 500; *Gonzalez*, 71 F.4th at 885.

The district court did not abuse its discretion by denying Baker's motion for a sentence reduction because it was within its discretion to do so, and it articulated its reasons for its decision. Accordingly, we affirm.

AFFIRMED.

APPENDIX 3

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-12494

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES BAKER, III,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:98-cr-00044-TFM-2

Before LUCK, LAGOA, and ANDERSON, Circuit Judges.

PER CURIAM:

The Petition for Panel Rehearing filed by Appellant Charles Baker, III is DENIED.

No. _____

In the

Supreme Court of the United States

CHARLES E. BAKER III,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PROOF OF SERVICE

I, CHARLES E. BAKER III, SWEAR OR DECLARE THAT ON THIS DATE, NOVEMBER 4, 2026, AS REQUIRED BY SUPREME COURT RULE 29, I HAVE SERVED THE ENCLOSED *MOTION FOR EXTENSION OF TIME* ON EACH PARTY TO THE ABOVE PROCEEDING OR THAT PARTY'S COUNSEL, AND ON EVERY OTHER PERSON REQUIRED TO BE SERVED, BY DEPOSITING AN ENVELOPE CONTAINING THE ABOVE DOCUMENTS IN THE UNITED STATES MAIL PROPERLY ADDRESSED TO EACH OF THEM AND WITH FIRST-CLASS POSTAGE PREPAID.

THE NAMES AND ADDRESSES OF THOSE SERVED ARE AS FOLLOWS:

SCOTT GRAY,
Assistant U.S. Attorney
63 South Royal Street,
Suite 600
Mobile, Alabama 36602

SOLICITOR GENERAL OF THE
UNITED STATES
ROOM 5614
DEPARTMENT OF JUSTICE,
950 PENNSYLVANIA AVE., N.W.,
WASHINGTON, D.C. 20530-0001

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON NOVEMBER 4, 2026.



Charles Edwardson Baker III
Reg. No. 06976-003
FCI Lompoc (Camp)
3705 West Farm Road
Lompoc, CA 93436