

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BENJAMIN ARELLANO FELIX,]

Petitioner,]

Case No. 8:97-CR-02520-LAB-1

Vs.]

UNITED STATES OF AMERICA,]

Respondent.]

**MOTION FOR REDUCTION OF SENTENCE (COMPASSIONATE
RELEASE) PURSUANT TO 18 U.S.C. 3582(C)(1)(A)**

TO: The United States District Attorney For The Southern District of California,
San Diego Division.

PLEASE TAKE NOTICE that on April 18, 2022, Benjamin Arellano Felix, (“Arellano”), acting Pro se, will move this Honorable Court for an order reducing his sentence pursuant to 18 U.S.C § 3582(c)(1)(A)(i) (Compassionate Release.).

Mr. Arellano invokes the intervention of this Honorable Court and presents that extraordinary and compelling circumstances have develop which make him eligible for a reduction of his sentence.

Mr. Arellano presents that not only he has demonstrated his desire to become a better person by exhibiting an exemplary behavior during his incarceration, with an impeccable attitude to staff officers at the different prisons where he has been confined, but also presents that his sentence is extremely excessive and unnecessary to achieve the purpose of punishment or rehabilitation, 25-years is an excessive sentence in other jurisdictions, considering that Mr. Arellano has an impeccable criminal record prior to this offence. Now Mr. Arellano presents extraordinary and compelling circumstances that have develop in the last few months and that represent a serious enough facts to invoke a reduction of his sentence.

Mr. Arellano's petition is founded based upon not only his imminent exposure to re-contracting Covid-19 at his place of confinement, but also Mr. Arellano has served sufficient time of imprisonment from his judgment. Mr. Arellano was arrested in 2002, in Mexico, then extradited into the United States in 2011. In total Mr. Arellano has served more than 20 years of imprisonment, this without accrediting his good time credit for the time served. As an important fact we have to underline that Mr. Arellano was not accredited for the time he spent in Mexico awaiting his extradition for the present case Also, Mr. Arellano in granting his compassionate release, Mr. Arellano presents that the same course of conduct for which he was convicted in Mexico, is the same course of conduct for which he enter culpability in the Southern District of California. As a matter or law Mr. Arellano's case implicates double jeopardy concerns. Mr. Arellano is a non-violent drug offender and has fully accepted his responsibility for his actions in in court in 2012. Mr. Arellano was sentenced on April 2, 2012, to 25-years of imprisonment. His release date reflects a harsh out date of April 28, 2033. Mr. Arellano has been disconnected from the street for over 20-years, he no longer represents a danger to another person or the community, additionally, because he will be placed on ICE disposition for deportation up on his release, that also exhibits that he may any

longer enter the United States and will not represent harm to the United States, or any danger to the American community.

Mr. Arellano urges that he has been a model inmate during his incarceration period and has engaged in self-reflection and post-offense rehabilitation. Now Mr. Arellano invokes for the intervention of the Court in granting a reduction of sentence or release under certain criteria.

Under the Implementation Act of The First Step Act 2018 and the development until 2022 of the same, this honorable court has that delegated and sufficient power to reduce Mr. Arellano's sentence, even recommend for reduction of sentence because of the crisis and health catastrophe developed by COVID-19 at many of the U.S. Federal Prisons. Mr. Arellano is 68-years of age, and has contracted COVID-19, his respiratory system was debilitated to the extent that he presents respiratory difficulties. Mr. Arellano deals with the hash prevention of Covid-19 and its collateral consequences. The extraordinary Nature of the COVID-19 Outbreak Among Federal Prison Population combined with other extraordinary and compelling facts make Mr. Arellano a perfect candidate to invoke the provisions of 18 U.S.C. § 3582(c)(1)(A)(i) which, permits this court bring a release or reduce sentence an inmate. Although, this court may not grant home confinement pursuant to the Cares Act and Program Statement 5050.49 because Mr. Arellano's deportable status, this court can alternatively provide with equal benefits as those implemented to U.S Citizens.

Mr. Arellano respectfully invokes for The First Step Act's "time credit" system that was implemented on January 15, 2022. Which is part of the implementation of The First Step Act 2018. The Act amended 18 U.S.C. § 3624(b) so that federal inmates can earn up to 54 days of good time credit for every year of their imposed sentence rather than for every year of their sentenced served. For example, this change means

that an offender sentenced to 10 years in prison and who earns the maximum good time credits each year will earn 540 days of credit.

The implementation of The First Step Act of 2018-2022, provides eligible inmates the opportunity to earn 10 to 15 days of time credits for every 30 days of successful participation in Evidence Based Recidivism Reduction Programs and Productive Activities. The earned credits can be applied toward earlier placement in pre-release custody, such as RRCs and HC. In addition, at the BOP Director's discretion, up to 12 months of credit can be applied toward Supervised Release. Inmates are eligible to earn Time Credits retroactively back to Dec. 21, 2018, the date the First Step Act was enacted, subject to BOP's determination of eligibility.

Implementation will occur on a rolling basis, beginning with immediate releases for inmates whose Time Credits earned exceed their days remaining to serve, are less than 12 months from release, and have a Supervised Release term. Some of these transfers have already begun, and many more will take place in the weeks and months ahead as BOP calculates and applies time credits for eligible incarcerated individuals.

The Court has an opportunity to correct an injustice. In 2012, Mr. Arellano was sentenced to a term of 25-years in prison for a non-violent drug trafficking offense. At that time, the Court's hands were bound. In 2018, Congress passed the First Step Act to prevent individuals like Mr. Arellano from having to serve long terms in prison.

Mr. Arellano now moves for a compassionate reduction in his sentence under § 3582(c)(1)(A) because of the change in the law, the ongoing COVID-19 pandemic,

background, and significant efforts toward rehabilitation. Combined and on their own, these considerations constitute an “exceptional and compelling reason” that warrants a sentence reduction.

Mr. Arellano’s criminal conduct does not justify a sentence to death in prison. If released now, he would be returned to his family in Mexico. Mr. Arellano requests that this Court say “enough is enough,” resentence him, and allow him to return to his family in Mexico.

The Court must “compelled to exhort the prosecuting U.S. Attorney to revisit and review this case with a critical eye,” and “consider taking any available steps toward the remedy of the inauspicious and undeserving fate that has befallen Mr. Arellano.

I JURISDICTION

Section 503(b) of the First Step Act of 2018 expanded the authority of the Court to grant compassionate release. *See United States v. Young*, No. 2:00-cr-00002-1, 2020 WL 1047815 (M.D. Tenn. Mar. 4, 2020) (Congress’s “express purpose” was “to expand the use of compassionate release sentence reductions.”). This Court may reduce a sentence, upon a motion of a defendant, once the defendant has “exhausted” and shown that “extraordinary and compelling reasons” exist. 18 U.S.C. § 3582(c)(1)(A)(i). Here, the Court has jurisdiction to consider Mr. Arellano’s motion. The injustice of Mr. Arellano’s sentence is an “extraordinary and compelling” reason alone, or combined with age and the ongoing COVID-19 pandemic and Mr. Arellano’s demonstrated rehabilitation. The Court should reduce Mr. Arellano’s sentence under 18 U.S.C. § 3582(c)(1)(A)(i) and considering the § 3553(a) factors.

II BACKGROUND

On September of 1997, the Southern District of California lodged an indictment against Benjamin Arellano Felix charging him with being one of several principals administrators, organizers and leaders of a large, powerful and violent drug trafficking organization based in Baja California Mexico, known as the Arellano Felix Organization (ATO"). Mr. Arellano was charges with violating Title 21 U.S.C 848(b) - Continuing Criminal Enterprise/ Principal Administrator; Title 21 U.S.C 963 - Conspiracy to Import Cocaine and Marijuana: Title 21 U.S.C Secs 841(a)(1) and 846 - Conspiracy to Distribute Cocaine and Marijuana Intending Unlawful Importation; Title 18 U.S.C Secs. 1956(a)(2)(A) and 1956(h) Conspiracy to Launder Monetary Instruments; Title 18 U.S.C Secs. 1952(a)(2) and 371.

On May 13, 2002, warrant Benjamin Arellano Felix was arrested in Mexico under the charged pending in the Southern District of California. Mr. Arellano was placed in Mexican custody pending extradition.

In 2011 Benjamin Arellano Felix was extradited to face criminal charges in the Southern District of California.

On January 4, 2012, Benjamin Arellano Felix entered culpability by form of plea agreement to Count 1 and Count 2.

On April 17, 2012, Benjamin Arellano Felix was sentenced to 20-years as to Count 1, Conducting the Affairs of an Enterprise Through a Pattern of Racketeering Activity in Violation of Title 18 U.S.C 1962(c), and to 5-years for Conspiracy to Launder Monetary Instruments in Violation of Title 18 U.S.C 371.

III. ARGUMENTS FOR REVIEW

A. Equal Protection

Mr. Arellano invokes his Equal Protection rights to present that he was arrested in Mexico in 2002 and that the time he spent awaiting his extradition was not accredited in his present sentence. His release date exhibits an our date of April 28, 2033, a date not reflecting the time he spent awaiting his extradition. Now, Mr. Arellano presents *United States v. Miguel Angel Caro-Quintero*, (Brother of Notorious Sinaloa Cartel member, Rafael Caro Quintero, who is wanted over the 1985 kidnapping and murder of U.S. Drug Enforcement Administration (DEA) agent Enrique Camarena), indicted by a federal grand jury in Denver in 1990. Same as Mr. Arellano, Caro-Quintero was arrested in Mexico awaited his extradition for some time in Mexico, then was extradited to the United States, except Caro Quintero was extradited on February 25, 2009. Prior to his extradition, Caro-Quintero was held in custody pending extradition, and served a prison sentence in Mexico for weapons possession crimes. Caro-Quintero had previously admitted to trafficking more than 100 tons of marijuana from 1985 through 1988, resulting in more than \$100,000,000 in payment being sent to Mexico. Was sentenced by U.S. District Court Judge Philip A. Brimmer to serve 204 months (17 years) in federal prison, followed by 2 years of supervised release, for his role in operating a large-scale marijuana trafficking organization in Colorado.

Mr. Arellano presents that he was sentenced in a different District Court than the one Mr. Quintero was sentenced at; Colorado District Court however under the same constitution laws and regulations as Mr. Caro-Quintero to

However, the Colorado district court granted Mr. Caro Quintero and invokes the same benefits, specifically the credit for the time he spent in prison awaiting his extradition. Mr. Arellano's case involves the same laws of the United States involved in Mr. Caro Quintero's case, however, this court has refused to accredit him for the time spent in Mexico awaiting his extradition. Mr. Arellano was treated differently than Mr. Caro Quintero even when they were both similarly situated.

In determining whether to grant Mr. Arellano's reduction of sentence or compassionate release, this court should take the above in consideration.

B. Double Punishment for The Same Course of Conduct.

Mr. Arellano was arrested in Mexico under charges he pled guilty in the Southern District of California was placed under extradition disposition for the present charges.

Mr. Arellano offers that he received double punishment for the same course of conduct during his sentencing calculation in the district of Southern District of California. The same course of conduct that was used to punish Mr. Arellano in Mexico was also used in the United States for conviction.

Mr. Arellano urges that he was punished two times for the same course of conduct.

In determining whether to grant Mr. Arriola's reduction of sentence or compassionate release, this court should take the above in consideration.

C. Smith variance And Equal Protection of Laws For Deportable Defendant

As a deportable alien, Mr. Arellano is not eligible for "the benefits of 18 U.S.C. § 3624(c), which directs the Bureau of Prisons, to the extent practicable, to assure that prisoners spend part of ... their sentences ... under conditions — possibly including home confinement — that will 'afford the prisoner a reasonable opportunity to adjust to and prepare for his re-entry into the community.'" *United States v. Smith*, 27 F.3d 649, 651 (D.C. Cir. 1994). In his PSR, the Probation Office should have raised the possibility of a downward departure to compensate for the increased severity of Mr. Arellano's punishment due to his ineligibility for this and other Bureau of Prisons programs (a Smith departure). See *id.* at 655. In general attorneys at the sentencing hearing, should argue in support of this departure because most defendants are bound by the plea agreement not to argue for any departures, however, as a matter of reasonableness any attorney should have addressed or preserve that it is intended to argue later for a downward variance on those same grounds (a Smith variance). Regularly, at the appropriate time, most, defense counsels waive raising Smith or otherwise make the case for a variance.

Now throughout this compassionate release petition Mr. Arellano invokes that the district judge should independently considered granting a variance or departure under Smith.

Mr. Arellano presents that during sentencing the district court was not presented to articulate by evidence supporting a Smith variance and in failing to exhibit to the district court's it deprived reason for denying one. Throughout, this compassionate release petition, the district court will the new have the opportunity to consider arguments for the variance and will have to provide a reasoned basis for accepting or rejecting them.

D. The Residential Drug Abuse Program (RDAP)

What is RDAP? The Residential Drug Abuse Program (RDAP) is an intensive nine-month, 500-hour substance use disorder rehabilitation program administered by the United States Federal Bureau of Prisons (BOP), offered to federal prisoners who qualify and voluntarily elect to enroll.

As relates to the claim at issue, Mr. Arellano invokes relief on his reduction of sentence or compassionate release also founded because Congress has provided that in 18 U.S.C. § 3621(e)(2)(B), that the [BOP] . . . may reduce by up to one year the prison term of an inmate convicted of a nonviolent felony if the prisoner successfully completes a substance abuse program." *Lopez v. Davis*, 531 U.S. 230, 232 (2001) (discussing § 3621(e)(1)'s mandate that the BOP "provide residential substance abuse treatment" to qualifying prisoners). Mr. Arellano complains that eligibility for early release under this program—known as RDAP—is refused to noncitizens like himself, resulting in their serving longer terms of imprisonment. See Am. Pet. at 3. Mr. Arellano, however, has standing to present such a claim because he would be eligible for RDAP early release if he was a citizen.

In his compassionate release, Mr. Arellano has standing to invoke a reduction of sentence because under Equal Protection of law the district court may equalize any other relief available to Mr. Arellano that can reduce his sentence same as those benefit that U.S. citizens enjoy.

E. Federal Halfway House Placements

At the same time other benefits like federal halfway house placements which is made pursuant to the BOP's authority under 18 U.S.C. 3624(c)(1). That statute allows the BOP to place prisoners in a federal halfway house for up to 12 months

for “pre-release” reasons. Sadly, Mr. Arellano even if eligible is not a U.S citizen, wherefore, may not get this benefit neither.

This court in granting a reduction of sentence or compassionate release must account that Mr. Arellano should not be treated differently than other prisoners similarly situated, he should be granted the same constitutional protection as fellow prisoners who were convicted under the same laws, regulations and constitution.

Even when Mr. Arellano may not obtain 12-months reduction for participating in the RDAP program, and 12-months Halfway House, this court may account that Mr. Arellano must serve a longer sentence than those persons similarly situated that were sentenced under the same courts, laws and regulations. In granting a reduction of sentence or compassionate release, this court must knowledge that Mr. Arellano is being treated differently than other defendants similarly situated. Mr. Arellano should not be discriminated; this court should provide any other alternative of relief that equals any relief granted to U.S. Citizen inmates. With this in mind, Smith variance must be evaluated for departure.

Now, in this petition, Mr. Arellano invokes Equal Protection rights that where simply ignored during sentencing. In the case at hand, the District Court has the opportunity to cure a violation of rights by reducing Mr. Arellano sentence.

F. Extraordinary and compelling reasons justify a sentence reduction.

Mr. Arellano offers that he is 68-years of age, with multiple medical conditions including hypertension, prediabetes, obesity liver dysfunction and his inability to walk without discomfort make his eligible for compassionate release.

To grant a compassionate release motion, the Court must find “extraordinary and compelling” reasons. Congress has never defined what constitutes “extraordinary and compelling.” Instead, it delegated that to the Sentencing Commission. *See* 28 U.S.C. § 994(t). The Commission’s recommendation appears in commentary to USSG § 1B1.13 (the actual policy statement just repeats the statutory language), noting that “extraordinary and compelling reasons” may include medical conditions, age, family circumstances, and other reasons. *Id.* at app. n.1. The Commentary does not limit “other reasons,” but says that it could be any “extraordinary and compelling reason other than, or in combination with” medical conditions, age, or family circumstances. *Id.* The Commission’s statement was, however, formulated before the First Step Act passed, and since then it has not met to redefine or clarify what “extraordinary and compelling” might mean. *United States v. Brown*, 411 F. Supp. 3d 446, 449 n.1 (S.D. Iowa Oct. 8, 2019).

Looking at the Commission’s earlier statements, courts have regarded them as helpful but anachronistic: “the scope of the old policy statement is clearly outdated and, at the very least, does not apply to the entire field of post-First Step Act motions Therefore, the policy statement may provide ‘helpful guidance’ but does not limit the Court’s independent assessment of whether ‘extraordinary and compelling reasons’ exist under § 3582(c)(1)(A)(i).” *United States v. Rodriguez*, No. 2:03-CR-00271-AB-1, 2020 WL 1627331, at *1 (E.D. Pa. Apr. 1, 2020); *see United States v. Fox*, No. 2:14-CR-03-DBH, 2019 WL 3046086, at *3 (D. Me. July 11, 2019) (“I agree with the courts that have said that the Commission’s existing policy statement provides helpful guidance [but] is not ultimately conclusive given the statutory change.”).

Thus, courts have found that they do not have to sit on their hands in situations like these and wait for the Commission to provide greater guidance. Instead, because the

“statute’s text directly instructs *courts* to ‘find that’ extraordinary circumstances exist,” the court may determine what falls within those statutory terms. *Rodriguez*, 2020 WL 1627331, at *6 (emphasis in original); *see also United States v. Beck*, No. 1:13-CR-186-6, 2019 WL 2716505, at *7 (M.D.N.C. June 28, 2019) (“While the old policy statement provides helpful guidance, it does not constrain the Court’s independent assessment”); *United States v. Lisi*, No. 15 CR. 457 (KPF), 2020 WL 881994, at *3 (S.D.N.Y. Feb. 24, 2020). And courts have acknowledged that “Congress’s express purpose” in amending § 3582(c)(1)(A) by the First Step Act was “to expand the use of compassionate release sentence reductions.” *United States v. Young*, No. 2:00-cr00002-1, 2020 WL 1047815 (M.D. Tenn. Mar. 4, 2020).

In determining what qualifies, the Court can rely on the ordinary and accepted meaning of the terms “extraordinary and compelling.” *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 566 (2012). *Black’s Law Dictionary* defines “extraordinary” as “[b]eyond what is usual, customary, regular, or common.” *Black’s Law Dictionary* (defining Extraordinary) (11th ed. 2019). It defines “compelling need” as a “need so great that irreparable harm or injustice would result if it is not met.” *Black’s Law Dictionary* (defining Compelling Need) (11th ed. 2019). Taken together, they constitute the standard this Court should apply: the reason must be “beyond what is usual, customary, regular, or common,” and the reasons must be “so great that irreparable harm or injustice would result if the relief is not granted.” *See United States v. Cantu*, No. 1:05 CR-458-1, 2019 WL 2498923, at *5 (S.D. Tex. June 17, 2019) (applying this approach with an older dictionary); *Beck*, 2019 WL 2716505, at *8 (same). Ultimately, though, the Court’s determination of what constitutes “extraordinary and compelling” rests in the Court’s authority and discretion “upon the court’s independent finding.” *Young*, 2020 WL 1047815, at *6 (collecting cases).

G. Summary of the efforts by Mr. Arellano to improve himself while serving his 25-year sentence.

Despite the injustice of his 25-year sentence, Mr. Arellano has been productive in the past near 25-years. (Sentry Report for Mr. Arellano, January 20, 2022.).

Because of his 25-year sentence, Mr. Arellano has served his sentence at different prisons, including, USP, Lee County.

Despite being held at maximum security facilities, and despite his limited ability to attend many of the programs offered by the prison system, he has engaged in a number of productive activities. This includes making efforts in obtaining his GED. It includes taking classes in parenting, business, music, keyboarding, finance, conflict and anger management, and leatherworks.¹ It includes work in the food service, education and chapel area of the prisons for many years. While incarcerated for the past near 20-years, his disciplinary record has been impeccable. He has no infractions.

VI. ARGUMENT FOR A § 3582(c)(1)(A)(i) REDUCTION

Section 503(b) of the First Step Act of 2018 expanded the authority of the Court to grant compassionate release. See *United States v. Young*, No. 2:00-cr-00002-1, 2020 WL 1047815 (M.D. Tenn. Mar. 4, 2020) (Congress’s “express purpose” was “to expand the use of compassionate release sentence reductions.”). This Court may

¹ For the past three years, there has been no programming at many prisons due to lockdowns because of Covid-19 . As a result, Mr. Arellano has been unable to participate in any programming over the last three years.

reduce a sentence, upon a motion of a defendant, once the defendant has “exhausted” and shown that “extraordinary and compelling reasons” exist. 18 U.S.C. § 3582(c)(1)(A)(i). Here, the Court has jurisdiction to consider Mr. Arellano’s motion. The injustice of Mr. Arellano’s sentence and age are “extraordinary and compelling” reason alone or combined with the ongoing COVID-19 pandemic and Mr. Arellano’s demonstrated rehabilitation. The Court should reduce Mr. Arellano’s sentence under 18 U.S.C. § 3582(c)(1)(A)(i) and considering the § 3553(a) factors.

A. The Court has jurisdiction to consider Mr. Arellano’s motion to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A), because 30 days have passed since his request for relief from the Warden.

Section 3582(c)(1)(A) states that a court may consider a defendant’s motion for compassionate release under (c)(1)(A)(i) “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.” The statute “requires the defendant either to exhaust administrative remedies or simply to wait 30 days after serving his petition on the warden of his facility before filing a motion in court.” *United States v. Haney*, No. 19-cr-541 (JSR), 2020 WL 1821988, at *3 (S.D.N.Y. Apr. 13, 2020); see also *United States v. Morgan*, No. 4:92-cr-4013, Doc. No. 2337, at *5-6 (N.D. Fla. Apr. 27, 2020) (considering motion because the defendant had waited more than 30 days). “In other words, a defendant must show at least thirty days passed since his prison’s warden received his compassionate release request.” [Dkt. No. 203 (citing *United States v. York*, No. 3:11-cr-79, 2019 WL 3241166, at *5 (E.D. Tenn. July 18, 2019)).] “By providing a 30-day lapse period, Congress specifically contemplated situations—such as the present pandemic wherein BOP

would be unable to manage all urgent and potentially meritorious requests for release.” *United States v. Amarrah*, 2020 WL 2220008, at *5 (E.D. Mich. May 7, 2020).⁴

Here, Mr. Arellano filed his motion for compassionate release to the Warden at USP, Lee County.

Mr. Arellano anticipates that the government, nonetheless, will argue that the Court lacks jurisdiction to consider all of Mr. Arellano’s arguments for compassionate release because, strictly construing his prior requests, he has not raised all of these reasons first with the Warden. The Court should reject this “issue exhaustion” argument. “Barring unambiguous statutory text to the contrary, issue exhaustion is inappropriate when the proceedings are more inquisitive than adversarial.” *United States v. Brown*, No. 4:05-cr-00227, Dkt. No. 246 at *7 (S.D. Iowa Apr. 29, 2020), (Pratt, J.) (citing *Sims v. Apfel*, 530 U.S. 103, 110 (2000); *Etchu-Njang v. Gonzales*, 403 F.3d 577, 581 (8th Cir. 2005)). Under § 3582(c)(1)(A), a Warden’s compassionate release inquiries are far from adversarial, and the Warden has broad discretion and the duty to investigate the facts and develop arguments for and against relief. *Id.* at *8. The issue of the appropriateness of compassionate release is ripe for the Court’s determination.

.B. The injustice of Mr. Arellano’s 25-year sentence is an extraordinary and compelling reason.

Please take note that Mr. Arellano relies back to a determinative error that substantially affected his sentence. In many of his prior filings Mr. Arellano has exposed that the District Court has been misinformed ab initio. Mr. Arellano’s increased sentence was based on PSR’s misrepresentation of the facts.

Had Mr. Arellano's counsel objected to the mischaracterization, he would not have received the sentence he received.

As the Court previously said: "There is no justice in the mandatory sentence Defendant received." With passage of the First Step Act of 2018, and the implementation of the same active post January 2022, this Court can correct that injustice on Defendant's own motion. Since 2018, various district courts have concluded that the injustice of abiding a sentence that was required under the law before the First Step Act of 2018, but which after the First Step Act is not, can provide an extraordinary and compelling circumstance that warrants resentencing.

For example, in *United States v. Maumau*, the defendant - who was 20 years old when he was arrested - was sentenced based on three stacked § 924(c) charges consistent with the mandatory minimums on each of the charges. *United States v. Maumau*, No. 2:08-cr-00758-TC11, 2020 WL 806121, at *5 (D. Utah. Feb. 18, 2020). The Court noted that, as part of the First Step Act, Congress eliminated the injustice of stacking consecutive 25-year sentences based on multiple § 924(c)'s. *Id.* "When considered together, the court is inclined to find that [the defendant's] age, the length of sentence imposed, and the fact that he would not receive the same sentence if the crime occurred today all represent extraordinary and compelling grounds to reduce his sentence." *Id.* Similarly, in *United States v. Young*, the U.S. District Court for the Middle District of Tennessee held that "the drastic change effected by the First Step Act's amendment of § 924(c) constitutes an extraordinary and compelling reason for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A)," when considered with the defendant's age and background. 2020 WL 1047815, at *8. In *Young*, the Court resentenced the defendant to 240 months, which was below the mandatory minimum that applied to the mandatory minimum applicable at the defendant's original sentence. See *United States v. Young*, No. 2:00-cr-00002-

1 (M.D. Tenn. Mar. 4, 2020), Dkt. No. 109; see also *United States v. O'Bryan*, No. 96-10076-03JTM, 2020 WL 869475, *1 (D. Kan. Feb. 21, 2020) (granting reduction because of the § 924(c) sentence stacking, as defendant's 25-year sentence would now be ten); *United States v. Urkevich*, No. 8:08cr37, 2019 WL 6037391, *2 (D. Neb. Nov. 14, 2019) (granting reduction because of the § 924(c) sentence stacking, as defendant's 848-month sentence would be 368 months today). Congress and the Commission have given limited guidance to whether the amendments to § 841(b)(1)(A)'s mandatory penalties are alone an "extraordinary and compelling" reason. With passage of the First Step Act, however, what is extraordinary and compelling is now left to the courts. See *United States v. Fox*, No. 2:14-CR-03-DBH, 2019 WL 3046086, at *3 (D. Me. July 11, 2019) (treating "the previous BOP discretion to identify other extraordinary and compelling reasons as assigned now to the courts"). Congress's mandate in expanding the compassionate release statute was intended to allow "district judges to consider the vast variety of reasons that may be 'extraordinary and compelling,'" not to limit compassionate release to those that the BOP or the Commission had previously deemed to justify compassionate release. See *Brown*, No. 4:05-cr-00227, Dkt. No. 246 at *10-13. Counsel recognizes that Section 401 of the First Step Act is not retroactive. The statute does not mandate reconsideration.

If Mr. Arellano were sentenced today, he would assuredly not receive a 25-year sentence from any district court judge. His sentence is simply a function of the time at which he was punished for his crimes. If this fundamental unfairness is not an "extraordinary and compelling" reason, then what is.

C. The COVID-19 pandemic is an extraordinary and compelling reason.

The number of courts that have granted compassionate release because of COVID-19 has grown along with the number of confirmed cases among inmates in the BOP's facilities. The take-away is that the COVID-19 pandemic creates an extraordinary and compelling reason for a sentence reduction under § 3582(c)(1)(A).

Here, Mr. Arellano reports that he does have health issues sufficient to amount compassionate release. Regardless, the threat to Mr. Arellano from COVID-19, combined with his 25-year sentence, and the inevitability that he will expend excessive time in prison for a non-violent drug offense, creates an extraordinary and compelling reason that justifies relief.

D. Mr. Arellano's age, background, and exceptional rehabilitation over the past near 25-years, combined with the other reasons, is an extraordinary and compelling reason

Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason." 18 U.S.C. § 994(t) (emphasis added); see also USSG § 1B1.13 cmt.3. But the mention of rehabilitation may still be considered with other factors. See *Brown*, No. 4:05-cr-00227, Dkt. No. 246 at *10. "For the word 'alone' to do any work—as it must—that means courts can consider rehabilitation as part of a compassionate release motion." *Id.* 14 Here, Mr. Arellano's performance in custody shows a man who has matured by the decade that have passed. Although in custody at maximum security federal prisons, with its heightened levels of confinement and oversight, Mr. Arellano has not incurred a single disciplinary

infraction in going-on 20-years. He has taken many classes, as available, to improve himself. He has been a model inmate for much of the time he has been in custody. Over the past 20-years, Mr. Arellano has aged. He committed his offense while being his late 40s. He is now 68-years old. Compared to description of the offense conduct in the PSR, his SENTRY report indicates a significant level of rehabilitation. Further incarceration would not serve any purpose of rehabilitation. Considered with the injustice of his 30-year sentence, his age, background, and rehabilitation is an extraordinary and compelling reason that justifies resentencing.

Also, Mr. Arellano faces additional charges in Mexico, which means that granting compassionate release in the United States will only represent that a new process beginning in a different country. However, Mexico will not start its criminal process until the United States release Mr. Arellano from custody.

Mr. Arellano prays that this court grant compassionate release in order for him to start its Mexican criminal process. Mr. Arellano is now 68-years of age which means that he only enjoys a few more years of life and to fight for his freedom. Enough is Enough 20-years is more punishment than necessary.

E. The Section 3553(a) factors justify a sentence of time served - which would equate to a sentence of 20-years.

No doubt, the "nature and circumstances of the offense," with the quantity of narcotics involved in the conspiracy, are serious. But the nature and circumstances of the offense do not justify a 25-year sentence. Neither do any of the other § 3553(a) factors. The need for rehabilitation of Mr. Arellano does not warrant anything more than what he has already served. And the other factors - the

“characteristics of the defendant,” the “need for the sentence imposed,” the need “to protect the public” and the need to prevent unwarranted sentencing disparities - all would have warranted a sentence at or near the minimum of 20-years. At the time he was involved in narcotics distribution, Mr. Arellano was 48. He had no prior convictions. Mr. Arellano, is a Mexican citizen, capable of maintaining employment. Nothing in his background or in the instant offense suggests that Mr. Arellano is a violent person. He has no prior violent convictions, misdemeanors or felonies. The offense does not involved possession of a firearm. Mr. Arellano’s guidelines range, if computed under the current sentencing guidelines but based on the facts and circumstances for Mr. Arellano at the time of his offense, would any longer suggest for a 25-year prison sentence.

While Mr. Arellano entered culpability in 2011, he now again in a more nuanced sense recognizes and takes full responsibility for his criminal behavior. He has had the past 20-years to ruminate on his past mistakes. He recognizes that, if released, he must be a different man - a better father for his children and a caring son for his mother, who is ailing in her older age and who he hopes to care for if he were released today. He is ready for release. Additional time in prison would serve no purpose.

Evaluating all the § 3553(a), a sentence closer to 20-years would be justified. At least, a sentence of time served, currently about 20-years is sufficient but not greater than necessary. Mr. Arellano may also present other individuals similarly situated from enduring such a harsh punishment.

F. Extraordinary Close Family Relationships

Mr. Arellano up on his arrest left a family that he loves. Mr. Arellano's daughter Ruth Arellano was impacted and scarred by the misguided choices her father made. Yet, not only his family has overcome these barriers to find their paths in the world, but each family member also accredits their Mr. Arellano's guidance and support as integral part of their success. Perhaps most tellingly, each children has grown up 20-years without a father however desiring to become a productive, contributing member of the community.

Nonetheless, Mr. Arellano has maintained uniformly close and loving relationships with his ex-wife and his two children. Remarkably, this includes the children who were young and could not possibly remember growing up with their father in the home.

The two children are extremely supportive of him, and they consider Mr. Arellano an important part of their lives, even though they have grown up without having him as a physical presence in their homes.

What becomes clear in the letters from Mr. Arellano's family and his children is that they are very devoted to him. From their descriptions, Mr. Arellano has also been highly devoted to his family, always making the effort to be a positive influence in the lives of his children. For their part, the family he is still well enough, mentally and physically, to have a meaningful presence in their lives.

In addition, many friends have render Mr. Arellano support, by offering employment and by describing Mr. Arellano's character prior and during his incarceration.

See Letter for His Children, Sisters and Friends Attached. Exhibit A.

G. Mr. Arellano's Release Plans

Mr. Arellano is a Mexican Citizen capable of satisfying and fulfilling any specific conditions as the court deems appropriate, also would any longer represent a danger to the community or to any person in the community since he is 68-years of age and has been in prison for 20-years. At the same Mr. Arellano has been offered support by his family and friends and will be able to support himself as he resettles into the Mexican community.

H. Mr. Arellano's Prayer

I humbly would like to express what has been my experience based on the circumstances of what took place back in 20 11 during my arrest. I was only around 48-years old when I was arrested. I urge now that the passing of near 20-years of incarceration has done little to dim the memory or the significance of my acts. It took 20-years of my life to build sufficient courage hereto express my filings about my actions. 20-years of remorse and shame not only that I have caused to my own person but that I caused to my family and loved ones. I was sentenced in 2012 to 25-years without the possibility of parole. I was 48-years of age, a man not capable of fully understanding the value of life. Now at 68-years of age, it sickens me to look back to the day in which my acts made public news. Sadly, I can't change my past, but I can indeed walk forward and cure as much as possible by providing to those in need.

I cannot ask for compassion for obvious reasons. Even I would refrain to grant myself such a significant gesture. I understand the nature and significance of my offense. However, it is worth exposing that for 20-years of my life I have made plans and have waited for that day in which I can give back what I took from the community, to demonstrate how harsh things have been for me and how much my life has changed throughout all these years. I have demonstrated substantial insight and understanding into my life and the circumstances that led me to commit the offense. Now able to look at my behavior I can formulate a number of different options in order to avoid conflict and violence in other settings and situations. Now things are very different, at 68-years of age, despite the pain I have caused my family they are fully supportive even when I face spending another 5-more years in prison. Now I walk in the hands of Christ and proudly dedicate myself to help others in need, my transition is in good faith and has provide me the opportunity of servitude an opportunity to give back some of the same mercy that I had been granted by the people of the state of the United States. I indeed value the enormity and mercy that I was granted then, I knew at the time of my sentence that my life was priceless. Now I see the hurt, the scars and missing pieces of other peoples' lives, but most important is the fact that now I see the hurt, the scars caused by my acts. Now, I can clearly see the brokenness of my own life and the gaps caused by my foolishness. Now I am flooded with regret, shame and desire to focus on fervent prayer for those I have hurt and scarred. I pray for the families and friends that were affected by my choices that the wounds and brokenness be bound up.

I fully agree that forgiveness is a significant word, and only comes to those who truly seek change. Now through this petition for compassionate release and supporting memorandum, my desire is to humbly expose my transition in life, as I am no longer the immature scared young man that I once was, through hard work and dedication I have accomplished many positive things, many goals, for near one

decades of life my behavior while incarcerated has reflected my desire to rehabilitate. I present myself as positive and exemplary to others, willing to motivate those in need. I continue to avail myself and therapy, including Conflict Transformation Skills, Pathways to Wholeness, and array of substance-abuse programs, Stress Management and Anger Management. I have participated in many charitable events and I have taken advantage of every educational opportunity including many achievements by participating in more than 100 different vocational educational and counseling institutional programs.

I pray that the Judge of this Honorable Court, and the United States for provide me opportunity not to die in prison, the opportunity to serve others out in the community. At my age (68-years), I no longer represent a danger to the American society, because I have rehabilitated, because I would be deported to a different country. I also fully understand the seriousness of the crime I inflicted, but please take into consideration that near 20-years have elapsed since my arrest. I have confidence that I would succeed in accomplishing my goals if granted compassionate release, I truly know that I can be a productive member of society if I am released from prison. I no longer pose any unreasonable risk of danger to society or threat to public safety if released. My exemplary record of participation in self-help, vocational and educational programs while in prison demonstrate my truly desire to rehabilitate and my realistic plans up on release. It would be unreasonable to ask for mercy, since the ideal state of the world is for justice to be served. However, there is different manners in which I can continue serving my in-custody term of judgment, I can always be maintained on Supervised release until the completion of my sentence, or as this court deems appropriate. A term of 20-years on Supervised release will also serve the purpose of justice and will not alter the judgment of the court, it will not constitute a reduction of sentence but an adjustment from 5-years

more years in-custody, to 20-years on Supervised release, which represents also an in-custody term of judgment.

I fully understand that the ideal state of the world is for justice to be served and that man would reap what he sows, then yet, I have served near 20-years of my 20-year sentence behind walls, a significant portion of any man's life considering that I was 48-years old when I was charged with the present offense. Considering that Science has established that the average person only lives up to 75-years of age and dies, meaning that my life has been reduced to 7-years of existence.

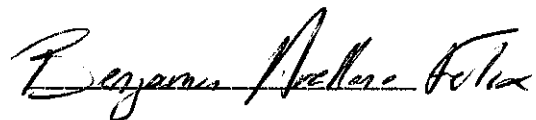
Please Judge, hear my prayers, have mercy and exercise your delegated power in granting this significant gesture in the form of compassionate release or reduction of sentence.

V. CONCLUSION

The Court should grant Mr. Arellano's motion for compassionate release under Section 3582(c)(1)(A)(i) and resentence Mr. Arellano to 20-years of incarceration or any other sentence as this court deems appropriate.

Date: 01/13/2022

Respectfully Submitted

Handwritten signature of Benjamin Arellano Felix in cursive script.

CERTIFICATE OF SERVICE

I, Benjamin Arellano Felix, hereby certify under penalty of perjury, that on this April 19, 2022, I placed a copy of the foregoing Compassionate Release Petition in a Mailbox at the United States USP, Lee County., affixed and with sufficient postage. A copy of the same was served to the United States Attorney's office for the Southern District of California.

Respectfully Submitted

A handwritten signature in cursive script that reads "Benjamin Arellano Felix". The signature is written in black ink and is positioned above a solid horizontal line.

BENJAMIN ARELLANO FELIX

REG # 00678-748

USP LEE

U.S. PENITENTIARY

P.O. BOX 305

JONESVILLE, VA 24263

ATTACHMENT A

ATTACHMENT B

BENJAMIN ARELLANO-FELIX
No. 00678-748

USP LEE
U.S. PENITENTIARY
P.O. BOX 805
JONESVILLE, VA 24263

02/23/2022

**PETITION FOR COMPASSIONATE RELEASE OR REDUCTION OF
SENTENCE OF BENJAMIN ARELLANO-FELIX FEDERAL INMATE**
Reg No. 00678-748

TO: The Warden at UNITED STATES PENITENTIARY (Lee USP).

Benjamin Arellano Felix ("Arellano") hereby respectfully moves for a reduction of his sentence and/or Compassionate Release pursuant to the Compassionate Release/Reduction under 18 U.S.C. § 3582(c)(1)(A)(i) and The First Step Act of 2018/Implementation of The First Step Act of 2018. At the age of 68, Mr. Arellano is exposed to contracting COVID-19 at United States Penitentiary, Lee, and has endured the consequence and prison prevention of the same.

Even when Mr. Arellano has been vaccinated, the vaccine has proven ineffective and only to minimize the level of severity upon contracting COVID-19, however, it does not prevent contracting it. Mr. Arellano presents concerns that because of his chronic medical conditions he if recontracts COVID-19, he would be highly affected and exposed to even death.

The First Step Act (FSA) was enacted in December 2018 to address long-standing problems in the federal sentencing and corrections system. The law aims to enhance public safety through rehabilitative programming, incentivize people incarcerated in federal prisons to participate in programs matched to their risks and needs, and

enable those assessed at the lowest risk levels to earn credits toward faster release to community supervision by completing recidivism-reduction programming. In addition to improvements to the prison system, the law includes several sentencing reforms to reduce the application and duration of lengthy prison sentences resulting from mandatory minimums for drug offenses and weapons enhancements.

Mr. Arellano's petition is founded based upon not only his imminent exposure to re-contracting Covid-19 at his place of confinement, but also Mr. Arellano has served sufficient time of imprisonment from his judgment. Mr. Arellano was arrested in 2002, in Mexico, then extradited into the United States in 2011. In its totality Mr. Arellano has served more than 20 years of imprisonment, this without accrediting his credit for the time served. Mr. Arellano is not being accredited for the time he spent in Mexico awaiting his extradition, also Mr. Arellano was charged and convicted for the same course of conduct that Mexico has lodge charges against him, which implicates double jeopardy concerns. Mr. Arellano is a non-violent drug offender who has fully accepted his responsibility for his actions in in court in 2012. Mr. Arellano was sentenced on April 2, 2012, to 25-years of imprisonment. His release date reflects a harsh out date of April 28, 2033. Mr. Arellano has been disconnected from the street for over 20-years, he no longer represents a danger to another person or the community, additionally, because he will be placed on ICE disposition for deportation up on his release and Mr. Arellano may any longer enter the United States, he does not represent harm to the United States, or any danger to the American community. This Warden should grant relief to Mr. Arellano.

Mr. Arellano urges that he has been a model inmate during his incarceration period and has engaged in self-reflection and post-offense rehabilitation. Now Mr. Arellano invokes for the intervention of the Warden in granting a reduction of sentence or release under certain criteria. Warden at United States Penitentiary (Lee

USP), has that delegated and sufficient power to release a sufficient number of inmates, even recommend for reduction of sentence because of the crisis and health catastrophe developed by COVID-19 at many of the U.S. Federal Prisons. Mr. Arellano has contracted COVID-19, his respiratory system was debilitated to the extent that he presents respiratory difficulties. Mr. Arellano deals with the hash prevention of Covid-19 and its collateral consequences. The extraordinary Nature of the COVID-19 Outbreak Among Federal Prison Population combined with other extraordinary and compelling facts make Mr. Arellano a perfect candidate to invoke the provisions of 18 U.S.C. § 3582(c)(1)(A)(i) which, permits the Warden to bring a release or reduce sentence an inmate. Also, Warden may grant home confinement pursuant to the Cares Act and Program Statement 5050.49 which allows a Warden to also reduce a sentence.

Mr. Arellano respectfully invokes for The First Step Act's "time credit" system that was implemented on January 15, 2022. Which is part of the implementation of The First Step Act 2018. The Act amended 18 U.S.C. § 3624(b) so that federal inmates can earn up to 54 days of good time credit for every year of their imposed sentence rather than for every year of their sentenced served. For example, this change means that an offender sentenced to 10 years in prison and who earns the maximum good time credits each year will earn 540 days of credit.

Mr. Arellano presents "extraordinary and compelling" reason for relief and exhibits concerns due his hypertension and post contracting Covid-19 respiratory difficulties and lack of medical attention at his place of confinement.

Additionally, as extraordinary and compelling reason, Mr. Arellano invokes Equal Protection rights and presents that, as it relates to the claim at issue, Mr. Arellano's is entitled to relief in the form of reduction of sentence or compassionate release because Congress has provided that in 18 U.S.C. § 3621(e)(2)(B), that the [BOP] . . .

may reduce by up to one year the prison term of an inmate convicted of a nonviolent felony if the prisoner successfully completes a substance abuse program." *Lopez v. Davis*, 531 U.S. 230, 232 (2001) (discussing § 3621(e)(1)'s mandate that the BOP "provide residential substance abuse treatment" to qualifying prisoners). Mr. Arellano complains that eligibility for early release under this program—known as RDAP—is refused to noncitizens like himself, resulting in their serving longer terms of imprisonment. See Am. Pet. at 3. Mr. Arellano, however, has standing to present such a claim because he would be eligible for RDAP early release if he was a U.S. Citizen. The Equal Protection of the Fifth Amendment protects Mr. Arellano from being treated different than other prisoners similarly situated.

At the same time other benefits like federal halfway house placements which is made pursuant to the BOP's authority under 18 U.S.C. 3624(c)(1) are unavailable to him for being a citizen of a foreign country. That statute allows the BOP to place prisoners in a federal halfway house for up to 12 months for "pre-release" reasons. Sadly, Mr. Arellano even if eligible is not a U.S. citizen, wherefore, may not get this benefit neither.

The Warden in granting a reduction of sentence or compassionate release must account that Mr. Arellano should not be treated differently than other prisoners similarly situated, he should be granted the same constitutional protection as fellow prisoners who were convicted under the same laws, regulations and constitution.

Even when Mr. Arellano may not obtain 12-months reduction for participating in the RDAP program, and 12-months Halfway House, Warden may account that Mr. Arellano must serve a longer sentence than those persons similarly situated that were sentenced under the same courts, laws and regulations. In granting a reduction of sentence or compassionate release, Warden must knowledge that Mr. Arellano is being treated differently than other inmates similarly situated. Mr. Arellano should

not be discriminated; Warden should provide any other alternative of relief that equals any relief granted to U.S. Citizen inmates.

Now, through this petition, Mr. Arellano pray that Warden for the United States Penitentiary, Lee, allow him for a reduction of sentence or Compassionate Release.

Mr. Arellano's family are supportive and willing to provide housing upon release. At the age of 68-years old, Mr. Arellano may work at his family's business in Mexico.

ADDITIONAL FACTORS IN SUPPORT FOR RELEASE

- a) **CRIMINAL HISTORY:** Mr. Arellano had a clean criminal record in the United States;
- b) **COMMENTS FROM VICTIMS:** Unknown / Non-Applicable.
- c) **UNRESOLVED DETAINERS:** "None"
- d) **SUPERVISED RELEASE VIOLATIONS:** None / Non-Applicable.
- e) **INSTITUTIONAL ADJUSTMENT:** Mr. Arellano has maintained himself completely free of disciplinary reports for over 20-years. In addition to clear conduct, he presents an excellent prison work record; completed numerous programs and courses and; has a very favorable disposition with staff. He is very respectful; do not cause trouble and follow regulations and orders with no quarrels;
- f) **DISCIPLINARY INFRACTIONS:** None;
- g) **PERSONAL HISTORY DERIVED FROM PSI REPORT:** Mr. Arellano is a first offender; he was residing in Mexico; he has no history

of drug or alcohol abuse; Very long history of employment prior to his incarceration and during his incarceration; No history of domestic violence or abuse; he is married with children; he provided financial support to his wife and children prior to his incarceration, and; he has maintained excellent family ties throughout his many years of imprisonment;

- h) **Mr ARELLANO'S CURRENT AGE:** 68 years old;
- i) **INMATE RELEASE PLANS:** Mr. Arellano was living on a family owned property with his wife and children and desires to work up on release. Now his children all adults are willing support him financially and provide medical assistance and employment until he adjust can get to the community.
- j) **WHETHER RELEASE WOULD MINIMIZE THE SEVERITY OF THE OFFENSE:** Mr. Arellano has been in prison for over 20 years on the instant offense; he has maintained an absolutely clean prison record; Prior to this offense he had never had any other arrest or convictions in the United States, Mr. Arellano knowledges that releasing him from prison will not minimize the severity of the offense committed, however, he has served more than half of his sentence, he has paided to the community for his wrong behavior.
- k) Contrary, according to the "Factors to be Considered in Imposing a Sentence" pursuant to 18 U.S.C. Sub Sect. 3553(a) and the abovementioned facts pertaining to Mr. Arellano's particular situation, he has been in prison more than sufficient time to satisfy the purposes of sentencing and punishment as outlined in said statute;

Ultimately, Mr. Arellano's age 68-years and all of the above meets the "Extraordinary and Compelling Circumstances" that should be considered in this request for Reduction of Sentence of Compassionate Release;

- 1) **FACTORS REGARDING RISK OF DANGER:** Mr. Arellano's release will not pose a danger to the safety of any other person or the community. At his 68-year-of age, he is passive and have never had any issues with the law until he was charged with this offense in the United States.

MR. ARELLANO'S REMARKS IN SUPPORT OF HIS RELEASE

Mr. Arellano is a man who has a newfound respect for the rule of law. Mr. Arellano understands that all roads in life for good or evil begin with one small step. When we choose the path, we choose our destination. Mr. Arellano accepts his responsibility for his poor choices as he has served significant portion of his sentence in Federal Prison. There were two roads to choose from prison life with difficulty and self-betterment. Mr. Arellano made the conscious choice to choose the better. Along this line, Mr. Arellano completed numerous life skills training programs while in custody. However, his medical condition has obstructed his self-motivation in continuing pursuing more educational programs, in this case his medical posture renders him incompetent to take any action towards bettering himself and even more in commencing his compassionate release request in prison.

Today, after near 20-years of incarceration, I Benjamin Arellano Felix humbly would like to express what has been my experience based on the circumstances of what took place in 2002 at the time of my arrest. I Benjamin Arellano, present that the passing of more than 20-years has done little to dim the memory or significance of my acts. For more than 20-years of my life I have carried a level of remorse and regret for causing my family and loved ones the shame of my actions. It sickens me to look back knowing that I cannot change my pass, however, I sincerely desire to cure as much possible by demonstrating that I have changed.

I cannot ask for compassion for obvious reasons, because sometimes even I refrain to grant myself such a significant gesture, considering the significance of my offense. However, it is worth exposing that for the past near 20-years of my life I have made plans and have waited for that day in which I can give back what I took from the community, to demonstrate how harsh things have been for me and how much life has changed me through all these years.

Now things are very different, at the age of 68-years, despite the pain caused to my family, my family are fully supportive even when I face near one-and-half decade

prison term. Now I walk in the hands of Christ and proudly dedicate myself to help others in need, my transition is in good faith and has provide me the opportunity of servitude and opportunity to change my life.

I fully agree that forgiveness is a significant gesture, and only comes to those who truly seek change. Through this petition, I present my desire to humbly expose my transition in life, as I am no longer immature. For near 20-year of my life my behavior while incarcerated represents my desire to rehabilitate. My life has been dramatically and eternally altered by my decision to become a follower of Jesus Christ. For many years I have demonstrated to be a man of honor, a consistent leader among the Church in prison. I believe in God, and indeed in rehabilitation of not only the soul by the mind.

I will not ask the warden for full release from custody, because I fully understand that such a thing is simply unrealistic, however, I propose to be maintained in probation for the rest of what is left of my sentence.

I humbly ask for mercy in the form of adjustment of sentence or transferring my sentence to any term of probation so I can further my vision and see it to development from outside prison.

Mr. Arellano knowledges that Warden possess the delegated power in granting his reduction of sentence, Mr. Arellano has followed up with all necessary requirements for reduction of his sentence. Mr. Arellano presents that he has contracted COVID-19 and endures the recovery which has rendered collateral consequences to his respiratory system. This fact is an extraordinary circumstance that defer from other circumstances and make him a perfect candidate for reduction of his sentence.

WHEREFORE, based on all of the abovementioned facts and any other records in support of this request available to you as Warden of this facility, I am respectfully requesting that you consider granting my application for reduction of sentence or Transferring my Physical Custody to Probation.

Please Warden, have the mercy and exercise your delegated power in granting this significant gesture in the form of Home Confinement to Inmate Benjamin Arellano Felix.

Additionally, you can contact HISPANIC LITIGANT LEGAL AID, LLC at 9919 Tintara Avenue, SW, Albuquerque NM. 87121. Phone No. 505-484-9405 for more information.

Respectfully Submit

Benjamin Arellano Felix

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Benjamin Arellano Felix
Reg No. 00678-748
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