

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 3:01-cr-151-MOC-DCK-5
)	
LAMAR REDFERN,)	
)	
Defendant.)	

**MEMORANDUM OF LAW
IN SUPPORT OF LAMAR REDFERN'S *PRO SE* MOTION FOR
REDUCTION IN SENTENCE (DKT. NO. 204) UNDER 18 U.S.C. § 3582(C)(1)(A)(I)**

SUMMARY

Lamar Redfern, through counsel, respectfully submits this memorandum of law in support of his motion for compassionate release under the First Step Act of 2018. In deciding Redfern's motion, this Court faces two issues:

- **Sentencing Factors:** Sentence reduction under the First Step Act must be consistent with applicable sentencing factors in 18 U.S.C. § 3553(a), including the need for the sentence to reflect the seriousness of the offense, avoid unwarranted disparities, and protect society. More than 20 years ago, Redfern displayed a firearm while participating in three bank robberies. No one was injured. He was sentenced to 58 years in prison under a statutory system that permitted "stacking" gun charges and resulted in severe mandatory minimum sentences for many. Congress dismantled this system for people like Redfern when it passed the First Step Act. After 20 years in prison, Redfern is rehabilitated and would already be free if he had been sentenced under today's mandatory minimums and charging policies. Further, reducing his sentence to time served would correct disparities between him and his codefendants, as well as others convicted under similar circumstances who have been granted

compassionate release. Under these circumstances, counsel for Redfern contends that reducing Redfern's sentence to time served satisfies applicable sentencing factors.

- **Extraordinary and Compelling Reasons for Release:** Under 18 U.S.C. § 3582(c)(1)(A)(i), a court can only reduce a petitioner's sentence if it finds "extraordinary and compelling reasons" to do so. The Fourth Circuit held in *United States v. McCoy* that the "sheer and unusual" length of a sentence and a defendant's age at the time of his offense can constitute "extraordinary and compelling reasons" for compassionate release. The Court further held that district courts are empowered to consider any "extraordinary and compelling reasons" a defendant presents. Redfern was only 21 years old at the time of his offense and has spent more than half of his life in prison. Because of the seismic shift in law regarding stacked firearms cases, Redfern's sentence is more than three decades longer than what Congress now deems appropriate for similar conduct. In fact, it is more than three times the median federal sentence for murder. Further, Redfern has strong family and community support and the vocational skills he will need to successfully transition back into society. Counsel for Redfern contends that these are circumstances constituting "extraordinary and compelling reasons" for compassionate release.

Because of Redfern's extreme sentence, his age at the time of his offense, his personal transformation, and his strong support network, we respectfully ask this Court to grant Redfern's motion for compassionate release by reducing his sentence to time served.

STATEMENT OF FACTS

Redfern started drinking alcohol when he was just eight years old, strongly suggesting a lack of parental guidance. Presentence Report ("PSR") ¶ 80. His father had just been sent to prison, where he would spend the next twelve years of Redfern's life. Redfern Letter at 1, Ex. 1. Redfern was living with his mother, his two younger sisters, and his mother's

abusive domestic partner. *Id.*; Anita Redfern Letter at 1, Ex. 3. His mother was spiraling into drug addiction as she attempted to medicate her pain. Anita Redfern Letter at 1, Ex. 3. Her drug abuse eventually led to state intervention, and Redfern was raised by his grandparents from age ten to twelve. Anita Redfern Letter at 1, Ex. 3. Although his mother conquered her addiction and regained custody of her children, she struggled to provide the discipline and role models Redfern needed to counteract the pervasive negative influences in his environment. *Id.* At thirteen, Redfern began abusing marijuana and drinking heavily. PSR ¶ 80. At sixteen, he started abusing Valium. *Id.* Subsequently, in 1996, when he was sixteen, Redfern was sent to prison for approximately four years for participating in an armed robbery. PSR ¶ 62.

Less than a year after his release, between June 26 and September 24, 2001, Redfern joined Christopher Moses and several others in robbing three banks, the offense for which we now seek compassionate release. PSR ¶¶ 9–10, 12. Christopher Moses led the group, paid participants, and brandished or possessed a gun in at least two of the robberies. Trial Tr. at 97, 103, Dkt. No. 145 (testimony of Eric Moses); *id.* at 118 (testimony of Eric Lowery); *id.* at 170, 174 (testimony of Christopher Moses). Redfern displayed a gun during each of the robberies. PSR ¶¶ 9–10, 12. The group stole a total of \$55,634 from the three banks, but no one was physically injured. PSR ¶¶ 18, 99. On October 16, 2001, less than four months after the first robbery, Redfern was arrested. PSR at 1. He has been incarcerated ever since.

Redfern's codefendants accepted plea deals. Christopher Moses was sentenced to 25 years for four armed bank robberies (the three Redfern participated in plus one later robbery) and one firearms offense under Section 924(c). Judgment of Christopher Moses, Dkt. No. 121; PSR ¶¶ 9–10, 12–13. Eric Lowery was sentenced to 23 years and ten months for two armed robberies and one firearms offense. Judgment of Eric Lowery, Dkt. No. 127. And Eric Moses was sentenced to eight years and three months for two armed robberies and one firearms offense. Judgment of Eric Moses, Dkt. No. 149.

On the eve of trial, the government also offered Redfern a plea agreement consisting of one bank robbery and one firearms offense under Section 924(c). Barnes Letter, Ex. 2. Redfern rejected the offer and went to trial. *Id.* He was convicted of three bank robberies and three firearms offenses. Verdict Sheet, Dkt. No. 108. He was initially sentenced to a staggering 64 years and 8 months in prison: the minimum sentence within the guidelines for the robberies and, as was mandatory at the time, a consecutive 57 years for the stacked firearms charges. Judgment at 2, Dkt. No. 142. His sentence was later reduced to 58 years, Amended Judgment, Dkt. No. 170, after the Supreme Court’s decision in *United States v. Booker* made sentencing guidelines advisory, 543 U.S. 220 (2005).

Redfern’s time in prison began as a continuation of “every self-destructive behavior that [he] had learned as an adolescent with no regards for the consequences.” Redfern Letter at 2, Ex. 1. He had 22 disciplinary infractions during the first nine years after his conviction. His infractions included fighting, assault without serious injury, possession of weapons and intoxicants, and insubordination. Disciplinary Record, Ex. 12. But everything started to change for Redfern following a visit from his niece about ten years ago.

During that visit, Redfern’s niece questioned how Redfern could encourage her to “be good and stay out of trouble” when he was “in jail, in jail”—her way to describe his time spent in the Special Housing Unit for disciplinary infractions. Redfern Letter at 2, Ex. 1. Redfern “reflected on her words long and hard” and began to realize the effect his actions have on others. *Id.* He then “made a vow . . . to be a better person regardless of [his] circumstances.” *Id.*

Redfern is the first to admit that his “commitment to change hasn’t been easy.” *Id.* But he has been successful. He has taken over 800 hours of educational courses. Education & Work History, Ex. 10. His studies have included courses that will serve him well outside of prison, including courses to improve his mental and emotional health, such as cognitive and

behavioral therapy and addiction recovery courses. *Id.*; Education Certificates, Ex. 11. He has “learned what empathy is,” regrets his crimes, and understands the seriousness of his offenses. Redfern Letter at 2, Ex. 1. In contrast to his early time in prison, he has had only two infractions in the past nine years and no infractions for more than three years. Disciplinary Record, Ex. 12. He continues to participate in “drug abuse and mental health programs, to further build on [his] foundation of change.” Redfern Letter at 3, Ex. 1.

Critically, Redfern has also developed practical job skills. He has taken courses to develop his office skills, such as computers, finance, and Microsoft Office courses. Education & Work History, Ex. 10. He has worked for the food service since January 2015, and has “proven himself to be a reliable and hardworking individual” who “comes to work with [a] positive attitude every day and encourages others . . . to do so as well.” Supervisor Letter, Ex. 7. He has been “a leader, a team player, and an asset” to the food services team. *Id.*

Notwithstanding this transformation and the 20 years he has already spent in prison, unless Redfern’s motion is granted, he still faces more than three decades behind bars. With consideration for good time, Redfern is currently scheduled for release on May 29, 2052—shortly before his seventy-second birthday. Sentence Computation, Ex. 13.

On March 20, 2020, Redfern filed a *pro se* motion for compassionate release under the First Step Act. Dkt. No. 204. On September 14, 2021, Redfern sent a request to the warden of his facility that the Bureau of Prisons file a motion for compassionate release on his behalf. Request to Warden, Ex. 8. The warden denied that request on October 8, 2021. Warden’s Denial, Ex. 9.

If this Court grants his motion, Redfern plans to live with his mother, who has been drug free for nearly 30 years. Anita Redfern Letter, Ex. 3. His mother is eager and able to provide emotional and financial support to smooth Redfern’s transition. *Id.* Similarly,

multiple members of Redfern's extended family have expressed their willingness to support Redfern in whatever ways they can. Family Support Letters, Ex. 4.

Additionally, Redfern is registered to participate in the LifeWorks! program offered by the Center for Community Transitions, a program that "provides individuals with criminal records with a variety of resources and tools necessary to reach their professional and personal goals." CCT Email & Brochure, Ex. 5. Reverend de'Angelo Dia of Charlotte's St. Paul Baptist Church also stands ready to connect Redfern with a mentor and accountability partner through one of the church's partner programs designed to assist the formerly incarcerated. Rev. Dia Letter, Ex. 6.

LEGAL STANDARDS

Under the First Step Act of 2018, defendants are no longer required to wait for the Bureau of Prisons to file a motion for compassionate release on their behalf. Pub. L. No. 115–391, 132 Stat. 5194, 5239, § 603(b) (codified at 18 U.S.C. § 3582(c)(1)(A)). Defendants may file their own motions after (1) exhausting administrative remedies for the Bureau's failure to file such a motion, or (2) "30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." 18 U.S.C. § 3582(c)(1)(A); *see also United States v. Alam*, 960 F.3d 831, 833 (6th Cir. 2020). Redfern satisfied this requirement by submitting a request to the warden of his facility on September 14, 2021, more than 30 days prior to the date of this filing. Request to Warden, Ex. 8.

This Court may grant a motion for compassionate release if, "after considering the factors set forth in section 3553(a) to the extent they are applicable," the Court finds that "extraordinary and compelling reasons warrant such a reduction" and "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(1)(A). Because the Fourth Circuit has held that the Sentencing Commission has not released any "applicable policy statements" after Congress overhauled the compassionate

release statute, and that “district courts are empowered . . . to consider *any* extraordinary and compelling reasons for release that a defendant might raise,” *United States v. McCoy*, 981 F.3d 271, 276, 283–84 (4th Cir. 2020) (internal quotation omitted), the two issues before the Court are

1. whether a sentence reduction is consistent with applicable sentencing factors, and
2. whether “extraordinary and compelling reasons warrant” such a reduction.

ARGUMENT

I. REDUCING REDFERN’S SENTENCE TO TIME SERVED IS CONSISTENT WITH § 3553(A) SENTENCING FACTORS; ALLOWING REDFERN TO SERVE THE REMAINDER OF HIS SENTENCE IS NOT.

Redfern has already spent 20 years in prison for participating in three robberies at the age of 21. Further incarceration would be “greater than necessary” to achieve the purposes of punishment and would allow “unwarranted sentence disparities” to persist. 18 U.S.C. § 3553(a).

A. Redfern’s 58-year sentence is decades longer than necessary to fulfil the purposes of punishment.

Under 18 U.S.C. § 3553(a)(2), a sentence should be “sufficient, but not greater than necessary” to

- reflect the seriousness of the offense;
- promote respect for the law;
- provide just punishment for the offense;
- afford adequate deterrence to criminal conduct;
- protect the public from further crimes of the defendant; and
- provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

For Redfern, time served satisfies each of these factors. His continued incarceration would benefit no one.

1. Redfern’s current sentence overstates the seriousness of his offense and could undermine, rather than promote, respect for the law.

Redfern’s sentence is more than 36 years longer than what Congress now deems appropriate for similar conduct. The bulk of Redfern’s sentence, 57 of the 58 years, is due to his three convictions for displaying a firearm under Section 924(c). Amended Judgment, Dkt. No. 170. At the time of Redfern’s sentencing, the law exacted a 7-year mandatory minimum for his first 924(c) conviction and 25-year mandatory minimums for each of his second and third convictions, even though he had never previously been convicted under that section. *Deal v. United States*, 508 U.S. 129, 136–37 (1993) (interpreting 18 U.S.C. § 924(c)). But in 2018, Congress eliminated this jump in the mandatory minimum except where the “violation . . . occurs after a prior conviction under this subsection has become final.” First Step Act of 2018, Pub. L. No. 115–391, 132 Stat. 5194, 5221–22, § 403(a) (codified at 18 U.S.C. § 924(c)(1)(C)). As a result, if convicted of identical charges but sentenced today, Redfern would have been sentenced to 22 years—one year for his participation in the robberies, and seven years for each of the Section 924(c) convictions. Accounting for the 590 days of good conduct time he has already earned, Sentence Computation, Ex. 13, and the additional good conduct credit he would have received under a 22-year sentence, *see* 18 U.S.C. § 3624(b)(1), Redfern would have been released on September 24, 2021.

Further, Redfern’s current sentence overstates the seriousness of his offense because it is decades longer than the median federal sentences for more serious offenses. *See United States v. Redd*, 444 F. Supp. 3d 717, 723 (E.D. Va. 2020). Redfern was sentenced to 58 years in prison for displaying a firearm during three robberies. Amended Judgment, Dkt. No. 170. He understands that his crimes were serious, and he regrets the pain he caused. Redfern Letter at 2–3, Ex. 1. But in comparison to other federal crimes, in which the stacking of 924(c) charges is not typically a factor, his sentence overstates the seriousness of his offense. For example, his 58-year sentence is more than three times the median federal sentence for

murder (19 years), and roughly four times the median federal sentences for sexual abuse and kidnapping (15 and 14 years, respectively).¹ Such an extreme and lengthy sentence, if unaltered, could “promote not respect, but derision, of the law” by suggesting that the law is “merely a means to dispense harsh punishment without taking into account the real conduct and circumstances involved.” *Gall v. United States*, 552 U.S. 38, 54 (2007) (favorably quoting district court judge).

Unfortunately, the sentencing Court had little ability to decrease the severity of the sentence to better match the seriousness of Redfern’s offense. The 57 years mandated for the firearms convictions was out of the judge’s control. The best the judge could do was to sentence him at the bottom of the guideline range—which he did. Judgment at 2, Dkt. No. 142. Then, as a result of *Booker*, the judge later reduced the robbery portion of Redfern’s sentence to just 12 months. Amended Judgment, Dkt. No. 170. Fortunately, when ruling on Redfern’s motion for compassionate release, this Court is no longer so constrained.

A sentence of time served is more than sufficient to deter anyone familiar with Redfern’s case. In *United States v. Evans*, the Court held that 20 years of incarceration “for a string of [four] bank robberies . . . provides just punishment and affords adequate deterrence for like offenses.” 504 F. Supp. 3d 519, 530 (E.D. Va. 2020). Redfern helped rob three banks within three months and received his share of about 55 thousand dollars. PSR ¶¶ 9–12. But he was arrested less than four months after the first robbery and has spent the following twenty years in prison. PSR at 1 & ¶ 9. It is difficult to imagine that anyone familiar with these circumstances would conclude that robbing banks is a worthwhile endeavor. If there is such a person, they would likely be undeterred by any sentence.

¹ U.S. Sentencing Comm’n, *Statistical Information Packet: Fiscal Year 2020—Fourth Circuit*, tbl. 7, <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/state-district-circuit/2020/4c20.pdf>.

2. Neither the public nor Redfern would benefit from Redfern's continued incarceration.

Continued incarceration is not necessary to protect the public, because Redfern is not the same person he was when he helped rob three banks at age 21. *See Bellamy v. United States*, 474 F. Supp. 3d 777, 782 (E.D. Va. 2020) (reducing petitioner's sentence to time served in part because he "is clearly a different person . . . than he was at his involvement in these crimes at age 21"). In *United States v. Davis*, the defendant had a record of "continued disciplinary infractions" within the prison system as of 2016. No. 3:90-cr-85-MOC, 2021 WL 2229293, at *5 (W.D.N.C. June 2, 2021). Yet this Court reduced the defendant's sentence to time served because of "significant evidence of post-sentencing rehabilitation," based on a record of only one infraction in the five years prior to his release and no violent infractions for the prior seven years. *Id.* at *5–6. Redfern's record shows similar rehabilitation.

At the beginning of his incarceration, Redfern engaged in "every self-destructive behavior that [he] had learned as an adolescent with no regards for the consequences." Redfern Letter at 2, Ex. 1. His disciplinary record shows that, during the first nine years after his conviction, Redfern had a string of infractions that includes fighting, assault without serious injury, possession of weapons and intoxicants, and insubordination. Disciplinary Record, Ex. 12. But Redfern had a change of heart following a visit from his niece. Redfern Letter at 2, Ex. 1. During the visit, she asked Redfern how he could encourage her to "be good and stay out of trouble" when he frequently got into trouble even while incarcerated. *Id.* This question prompted Redfern to reflect on the effect of his actions on others and to commit to being a better person. *Id.* As a result, Redfern has had no violent infractions in more than 10 years, and no infractions at all for more than three years. Disciplinary Record, Ex. 12.

Redfern's personal development is also reflected in his education and work history. He has completed more than 800 hours of educational programming, including courses

to improve his mental and emotional health (e.g., cognitive and behavioral therapy and addiction recovery courses) and courses to sharpen his workplace skills (e.g., computers, finance, and Microsoft Office courses). Education & Work History, Ex. 10; Education Certificates, Ex. 11. In his work with the food service since January 2015, Redfern has “proven himself to be a reliable and hardworking individual” who “comes to work with [a] positive attitude every day and encourages others . . . to do so as well.” Supervisor Letter, Ex. 7. He has been “a leader, a team player, and an asset” to the food services team. *Id.*

In short, not only is Redfern no longer a threat, but he has also developed the skills and work ethic needed to contribute meaningfully to society. If Redfern is not released from prison for another three decades—until he is almost 72—Redfern and society both lose. If this Court reduces Redfern’s sentence to time served, however, everyone wins.

B. Consideration of Redfern’s age at the time of the offense also weighs in favor of reducing his sentence to time served.

Redfern’s age at the time of the robberies matters because the part of the brain “utilized in impulse control, emotional reactions, executive function and decision making” is not fully developed in men until age 25 on average.² Given their lower impulse control and less developed decision-making capabilities, younger defendants tend to be less culpable than older defendants, and less likely to respond to harsh punishments. *Cf. Miller v. Alabama*, 567 U.S. 460, 471–72 (2012) (explaining that “transient rashness, proclivity for risk, and inability to assess consequences . . . lessened a child’s ‘moral culpability’ and enhanced the prospect that, as the years go by and neurological development occurs, his ‘deficiencies will be reformed’” (quoting *Roper v. Simmons*, 543 U.S. 551, 570 (2005))). This is why age is “a factor that many courts have found relevant” when evaluating motions for compassionate

² USSC, *Youthful Offenders in the Federal System* 6–7 (2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170525_youthful-offenders.pdf.

release. *McCoy*, 981 F.3d at 286.

All three of the bank robberies at issue in this case occurred within four months of Redfern's twenty-first birthday. PSR at 2, 5–6. He was four years shy of complete brain development for the average male and younger than some of the defendants granted release in *McCoy*. 981 F.3d at 286 (noting that defendants' were between 19 and 24 years old at the time of their offenses, and that "each defendant had spent close to or more than half of his life in prison"). Indeed, the decision-making portion of Redfern's brain was likely even less developed than this suggests, because marijuana and alcohol use have been found to delay brain development.³ Redfern started drinking alcohol at age 8 while he was living with his mother and her abuser, and he started smoking marijuana at age 13. PSR ¶ 80. This is not to suggest that Redfern did not understand that what he did was wrong. He did. Redfern Letter at 2, Ex. 1. But his actions should not be viewed the same as those of older defendants who engage in similar conduct. *Cf. United States v. Green*, No. 5:00-cr-34-KDB-1, 2021 WL 3044158, at *3 (W.D.N.C. July 19, 2021) (denying a motion for compassionate release for a defendant who was 43 years old when he committed two armed robberies).

At 41 years old, Redfern has now spent more than half of his life in prison. Under his current sentence, he will be released when he is almost seventy-two years old, having spent just over a year of his adult life in freedom. PSR at 1–2, 10; Sentence Computation, Ex. 13. The window of opportunity for Redfern to prove himself capable of contributing to society was tragically narrow. This Court has the ability to change that.

³ USSC, *Youthful Offenders in the Federal System* 6–7 (2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170525_youthful-offenders.pdf.

C. Reducing Redfern's sentence to time served would correct unwarranted sentence disparities.

As discussed, there is a wide disparity between Redfern's sentence and the sentences of people convicted of similar conduct today. *See supra* Section I.A. In addition to curing that disparity, reducing Redfern's sentence to time served would also correct unwarranted disparities between him and similarly situated applicants for compassionate release, and between him and his codefendants.

1. Granting this motion would correct unwarranted sentence disparities between Redfern and other defendants who have petitioned the courts for relief from stacked 924(c) sentences.

Reducing Redfern's sentence to time served furthers applicable sentencing goals, because it would eliminate unwarranted sentence disparities between him and other petitioners for compassionate release with stacked firearms convictions. *See, e.g., United States v. Woods*, No. 5:03-CR-30054, 2021 WL 1572562, at *4 (W.D. Va. Apr. 21, 2021) (considering favorably the fact that “many defendants have received similar sentence reductions following the First Step Act’s clarification of § 924(c)”). In June of this year, this Court granted four such petitions. *United States v. Davis*, No. 3:90-cr-85-MOC, 2021 WL 2229293 (W.D.N.C. June 2, 2021); *United States v. Jackson*, No. 3:90-cr-85-MOC-1, 2021 WL 2227333 (W.D.N.C. June 2, 2021); *United States v. Jackson*, No. 3:90-cr-85-MOC-DCK, 2021 WL 2226488 (W.D.N.C. June 2, 2021); *United States v. Whitener*, No. 3:90-cr-85-MOC-1, 2021 WL 2227330 (W.D.N.C. June 2, 2021).

Although motions for compassionate release based on stacked 924(c) sentences are not automatically granted under the First Step Act, they are typically denied only when the circumstances of the offense or the history of the defendant suggest a danger to society that was not sufficiently reflected by the charges. For example, this Court denied the petition of a man convicted of multiple bank robberies and stacked 924(c) sentences who also “struck bank employees in the head[,] . . . threw the tellers on the floor before binding their hands and feet

with flex cuffs[,] and . . . forced bank tellers to disrobe.” *United States v. King*, No. 3:01-cr-210-MOC-1, 2021 WL 3112436, at *1 (W.D.N.C. July 22, 2021). Similarly, the Court denied a motion where, during the course of his bank robberies, the defendant “fired three shots from his gun and shot a bank customer in the thigh,” and the defendant “had already been convicted of five previous counts of bank robbery with a dangerous weapon and one previous count of attempted bank robbery with a dangerous weapon.” *United States v. Poole*, No. 3:01-CR-00193-GCM, 2021 WL 3642048, at *1 (W.D.N.C. Aug. 17, 2021). But the offense conduct typically must be quite extreme to warrant a denial.

Even some defendants with aggravated offense conduct have had their sentences reduced to eliminate the jump in the mandatory minimum for stacked firearms offenses. For example, in *United States v. Ross*, the Court reduced the portion of the sentence deriving from the stacked 924(c)s because of “the need to avoid unwarranted sentencing disparities” even though the defendant, who had been convicted of multiple bank robberies, threatened to kill his victims, locked them in a bank vault, and broke the nose of one. No. 5:94-cr-00005-KDB, 2021 WL 4005615, at *4 (W.D.N.C. Sept. 2, 2021). Similarly, in *Owen v. United States*, the Court reduced the defendant’s sentence to time served despite the fact that the defendant planned and led 29 armed robberies in under a year. No. 2:03-CR-197-1, 2020 WL 7407872, at *1 (E.D. Va. Dec. 17, 2020).

While Redfern acknowledges that his offenses were serious, there were no such aggravating circumstances in his case. He displayed a firearm during three bank robberies while his codefendants took the money. PSR ¶¶ 9–10, 12. No one was injured. PSR ¶ 18.

2. Granting this motion would also correct an unwarranted sentence disparity between Redfern and his codefendants.

Reducing Redfern’s sentence to time served is also important to correct the sentence disparity between him and his codefendants, whose sentences were each more than 30 years shorter than his. See *United States v. Sloan*, No. 3:93-CR-00028-GCM, 2021 WL

3733136, at *2 (W.D.N.C. June 8, 2021) (concluding that the defendant’s sentence length was even more “extraordinary and compelling” considering that his codefendants “fared far better than him in their proceedings”). Specifically, Christopher Moses, Eric Lowery, and Eric Moses each participated in two or more bank robberies, PSR ¶¶ 9–13, but received far shorter sentences than Redfern.⁴

These disparities are not explained by differences in culpability. Christopher Moses led four bank robberies, Judgment of Christopher Moses, Dkt. No. 121, and he himself testified that he carried a firearm in at least two of the robberies, Trial Tr. at 170, 174, Dkt. No. 145. Yet his sentence is 33 years shorter than Redfern’s. Further, on the eve of trial, the government offered Redfern a plea deal of one bank robbery and one firearm—the lightest offer given to any of the codefendants. Barnes Letter, Ex. 2. If Redfern would have accepted the offer, he would have faced a mandatory minimum of seven years for the 924(c) and a guidelines range of 57 to 71 months for the robbery, for a total of 141 to 155 months in prison. It is unlikely that the government would have made such an offer if it viewed Redfern as more culpable than his codefendants, especially given that his codefendants had already confessed.

It makes sense that Redfern’s codefendants would receive some benefit for their timely acceptance of responsibility. But a 50-year difference in mandatory minimums resulting from the convergence of prosecutorial discretion and Redfern’s poor decision on the eve of trial is unwarranted. *Cf. United States v. Haynes*, 456 F. Supp. 3d 496, 500 (E.D.N.Y. 2020) (noting “the crushing penalty [the defendant] paid for going to trial”). This Court has the power to correct that disparity.

⁴ Christopher Moses was sentenced to 25 years for four armed bank robberies and one firearms offense. Judgment of Christopher Moses, Dkt. No. 121. Eric Lowery was sentenced to 23 years and ten months for two armed bank robberies and one firearms offense. Judgment of Eric Lowery, Dkt. No. 127. Eric Moses was sentenced to eight years and three months for two armed bank robberies and one firearms offense. Judgment of Eric Moses, Dkt. No. 149.

II. THE STAGGERING LENGTH OF REDFERN’S SENTENCE, HIS AGE AT THE TIME OF HIS OFFENSES, AND HIS REENTRY PLAN ARE EXTRAORDINARY AND COMPELLING REASONS TO REDUCE HIS SENTENCE TO TIME SERVED.

A 58-year sentence for a 21-year-old who displayed a firearm during three bank robberies in which no one was injured is an “extraordinary and compelling reason” for compassionate release, especially when he has a community of support ready to welcome him and help ensure his success as a contributing member of society.

A. The extreme length of Redfern’s sentence combined with his age at the time of offense is an “extraordinary and compelling reason” for reducing his sentence to time served.

The length of Redfern’s sentence is an “extraordinary and compelling reason” to grant his motion because, as discussed, it is “disproportionate to the seriousness of his offense and to what Congress now deems appropriate.” *United States v. Bryant*, No. 95-202-CCB-3, 2020 WL 2085471, at *5 (D. Md. Apr. 30, 2020). Indeed, Redfern’s case is even more compelling than those of the three defendants in *McCoy* who were “convicted of bank-robbery charges and three counts of using a firearm in connection with the robberies.” 981 F.3d at 278. Each was between 22 and 24 years old at the time of offense; and each received a sentence “about twice as long as federal sentences imposed today for murder” and “a full 30 years longer ‘than what Congress has now deemed an adequate punishment.’” *Id.* at 278, 285 (quoting *Redd*, 444 F. Supp. 3d at 723). By comparison, Redfern was 21 years old at the time of offense; and he received a sentence more than three times the median sentence for murder and 36 years longer than the sentence he would receive today. *Supra* Section I.A. Each *McCoy* defendant had his sentence reduced to time served because of the “sheer and unusual length of the sentence[.]” and his youth at the time of offense. 981 F.3d at 285–86, 288. This Court has the authority to do the same for Redfern.

Recent changes in government charging policy also weigh in favor of Redfern’s release. In June, this Court granted compassionate release to four defendants in part because,

due to changes in DOJ charging policy, they would have been charged with no more than one or two 924(c)s if charged today. *Davis*, 2021 WL 2229293, at *5; *Jackson*, 2021 WL 2227333, at *5; *Jackson*, 2021 WL 2226488, at *5; *Whitener*, 2021 WL 2227330, at *5. Similarly, Redfern would benefit from a January 2021 policy change designed “to ensure that decisions about charging, plea agreements, and advocacy at sentencing are based on the merits of each case and reflect an individualized assessment of relevant facts.”⁵ In light of the one-bank-robbery, one-firearm plea that the government offered Redfern on the eve of his trial, Barnes Letter, Ex. 2, it is unlikely that a prosecutor, having performed an “individualized assessment” of Redfern’s circumstances, would charge more than one firearm offense under Section 924(c).

B. Redfern’s strong reentry plan is an additional compelling reason for release.

Redfern’s preparation for success upon release and his strong support network also weigh in favor of release. In *Whitener*, this Court found that the defendant’s “impressive plan for his re-entry into society” was “compelling.” 2021 WL 2227330, at *5. The defendant’s plan included living with his mother and participating in community organizations that provide support for people transitioning from prison back to society. *Id.*

Redfern’s plans are similarly robust. After release, Redfern will live with his mother, who has been clean from drugs for almost 30 years, and who is ready and eager to provide Redfern with the support she was not able to give him when he was younger. Anita Redfern Letter ¶ 3, Ex. 3. Redfern is already registered with the LifeWorks! program offered by the Center for Community Transitions—a program that includes, among other things, a two-week employment readiness workshop and a guaranteed “job interview with a ready-to-hire-employer.” CCT Email & Brochure, Ex. 5. The church he attended in his youth is also prepared to provide a mentor and job application assistance to help smooth his transition. Rev. Dia

⁵ Memorandum from the Acting Attorney General for All Federal Prosecutors, Office of Attorney Gen. (Jan. 29, 2021), <https://www.justice.gov/ag/page/file/1362411/download>.

Letter, Ex. 6. And Redfern’s extended family stands ready to support him in his transition back to society. Family Support Letters, Ex. 4. In short, the environment Redfern will return to if this Court grants his motion is worlds apart from the environment he left as a troubled young man.

CONCLUSION

In 1980, the year Lamar Redfern was born, the estimated “average remaining lifetime” for a black male born in the United States was 63.7 years.⁶ If Redfern remains in prison—and survives—until the end of his currently mandated sentence, he will not be released until shortly before his seventy-second birthday. And he faces this crushing sentence all because, at the age of 21, he displayed a gun while participating in three bank robberies in which no one was injured.

Redfern is not the same person he was when he participated in those robberies. He is ready to prove that he can be a contributing member of society, and this Court has the power to give him that chance.

For these reasons, we respectfully request this Court to grant Redfern’s motion for compassionate release and reduce his sentence to time served.

⁶ U.S. Dep’t of Health & Hum. Servs., *Vital Statistics of the United States, 1980: Life Tables* 11, tbl. 6-1 (1984), https://www.cdc.gov/nchs/data/lifetables/life80_2acc.pdf.

Respectfully submitted,

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