

Statement of Bonnie Hernandez
Hearing on Sexual Assault in U.S. Prisons Two Decades After the Prison Rape Elimination Act
Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism
Wednesday, September 25, 2024

Chair Booker, Ranking Member Cotton, and distinguished members of the Subcommittee, thank you for the opportunity to appear today to testify about my experience as a survivor of sexual abuse by a BOP employee.

My name is Bonnie Hernandez. In 2015, I was sentenced to 192 months in prison after pleading guilty to felony charges involving drugs, weapons, and money laundering.

I am the mother of two extraordinary daughters. They have been my strength and my comfort, and being their mother is truly my proudest accomplishment. I had a steady job in corporate America, but when the company was looking to cut costs, I found myself out of a job. I was desperate to provide for my family and I made a decision that still haunts me every day. I got involved in selling and using drugs. I deeply regret what I did and I have always accepted full responsibility for my actions.

In July 2015, I was sent to FCI Tallahassee to serve my time. While there, I had regular access to fresh air and BOP recreational programs. I had a fulfilling job as a Wellness Clerk, and most importantly, I was able to have video visits with my daughters. All I wanted was to serve my time, pay for my mistakes, and return home to my family as quickly as possible. But I had no idea how high of a price I would end up having to pay.

In 2019, my job was reassigned to a new supervisor, Correctional Officer Lenton Hatten. Not long after my reassignment, Officer Hatten began showing me extra attention. He brought me contraband like makeup, made sexual comments towards me, and would grope me while we were alone in his office. Eventually, he began repeatedly raping me. Officer Hatten used his power and authority over my body to manipulate and violently abuse me.

When I first got to prison, as part of our orientation, I was made to watch an outdated video on PREA. It warned me about sexual violence from other prisoners, but it did not warn me about violence that might be perpetrated by the people who were paid to protect me. And that video was pretty much the last time I ever received information about my rights under PREA.

During my time at Tallahassee, I had seen what happened to people who had been groped and abused, and who reported it to staff – they were relocated, put in the Special Housing Unit, and retaliated against in ways that made it clear to me that when Hatten came for me, the best thing I could do was to keep my mouth shut about his sexual violence.

But eventually, Hatten’s violence escalated – it got to the point where I feared for my life and had no choice but to report him, even though I was terrified to do so. When I reported that he had been repeatedly and violently raping me, I too was retaliated against, just as I feared. I was called a “snitch” by others, I was put in the Special Housing Unit, but most upsetting, a few days after reporting, I was transported without my knowledge, in the wee hours of the morning, from FCI

Tallahassee to FDC Miami. FDC Miami is a pretrial detention center. It has no outdoor space, no programming or jobs, and no technology to facilitate the video calls with my daughters that we depended on. I was cut off from the support systems and outlets at a time when I needed them the most.

Despite what SIS or OIG says, nothing in prison is confidential. When you make a report with SIS or OIG, they come to the unit and call your name to go the Lieutenant's office. A few months after I got to FDC Miami, a PREA investigator came to my unit. The guards said that anyone who would like to talk to the investigators were welcome to do so and could wait in line, in front of everyone else. I did not even get in that line, but they called my name over the loudspeaker. Everyone saw me go talk to the investigator. The PREA investigator was a day late and a dollar short. He knew all the information I had already provided and did not give me any information about what my rights or my options were.

It turns out that Officer Hatten was prosecuted for his crimes against me. He was sentenced to three months in prison. Do you know, no one even told me that my assailant had been prosecuted and punished for the things he did to me? And by the time he was prosecuted, served his time, and released from custody, I was still sitting in a cell in FDC Miami completely alone and hopeless. I knew it wouldn't be easy coming forward, but I never thought reporting my abuse would make my life in prison as awful as it was.

I was the survivor of a crime in federal prison perpetrated by federal law enforcement officers, but I certainly never felt like anyone had my back or was looking out for me. Thanks to compassionate release and the new Sentencing Commission policy statement that allow victims of abuse to seek a reduced sentence, I was released from prison in May 2024. *See Appendix A and B.* When I walked out of FDC Miami it was the first time in two years I breathed in fresh air. When I got off the airplane, it was the first time in two years that I saw my daughters faces.

As I sit here, I am only a few months into my freedom. Coming home was one of the happiest moments of my life and it has also been incredibly difficult. I still have trauma to deal with; the court ordered therapy, and yet, it took four months for me to get to see a therapist. I desperately need a job, but red tape has prevented me from getting the paperwork I need for a job. I connected with numerous re-entry organizations, but they all have waitlists and criteria that make it difficult to get help. I have to provide urine samples roughly twice a week and it requires driving each way, yet I still don't have my driver's license back. Luckily, I have the greatest Dad in the world, and he drives me where I need to go, but I couldn't make it to my appointments if I had to walk or take an Uber. What about people who don't have what I do?

Being here today is among the hardest things I have ever done. But I am here for my daughters, and here for so many other women I left behind in prison who I knew were being abused. I hope that in sharing my story, it will help make the road ahead for them a little less rocky.

Thank you for your time, for giving me the opportunity to share my story, and for your commitment to bettering the lives of people in prison.

APPENDIX A

Motion to Reduce Sentence

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:12-CR-00378-GAF
)	
BONNIE CORTEZ HERNANDEZ,)	
)	
Defendant.)	

**UNOPPOSED MOTION TO REDUCE SENTENCE PURSUANT TO
TITLE 18 U.S.C. § 3582(c)(1)(A)(i)**

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In 2015, Bonnie Cortez Hernandez was convicted in this Court and sentenced to a term of incarceration (Doc. 210). For some three years while serving her term of incarceration at FCI Tallahassee, Ms. Hernandez was targeted and repeatedly sexually assaulted by Lenton Jerome Hatten, a federal corrections officer at FCI Tallahassee. Hatten was federally prosecuted, convicted and sentenced for his criminal behavior. Ms. Hernandez was identified as a victim in the criminal case against Hatten (identified as B.H.).

Although Hatten has now been released from custody. Ms. Hernandez remains in custody. As the victim of sexual abuse committed by a federal correctional officer while in custody, Ms. Hernandez's circumstances fit squarely within the United States Sentencing Commission Policy Statement on reduction in sentence as "extraordinary and compelling," USSG §1B1.13(b)(4). Releasing Ms. Hernandez is also consistent with the factors at 18 U.S.C. § 3533(a) and USSG §1B1.13(a). As such, Ms. Hernandez, respectfully and without opposition, moves this Court for its order reducing her sentence to time served and ordering her released from custody consistent with the terms set out below.

In support of her unopposed motion, Ms. Hernandez respectfully suggests as follows.

I. FACTUAL BACKGROUND

a. Ms. Hernandez's instant offense

On December 12, 2012, Ms. Hernandez was indicted in the Western District of Missouri for charges related to drugs, guns, and money laundering. (Doc. 1). She pled guilty on September 25, 2014, to three counts – 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846 (conspiracy to distribute 500 grams or more of a mixture of methamphetamine; 18 U.S.C. §§ 1956(a)(1)(A)(i) and (h) (conspiracy to commit money laundering); and 18 U.S.C. §§ 924(c)(1)(A)(i) (possession of a firearm in furtherance of a drug trafficking crime). (Doc. 130). These are serious crimes. Notably, though, Ms. Hernandez not only took accountability quickly but also cooperated significantly with

the government. (Doc. 229 at 5). Following her plea and cooperation, on September 15, 2015, Ms. Hernandez was sentenced to 192 months in prison. (Doc. 210).

Ms. Hernandez's involvement in drug activity began after she lost her job. She made a series of decisions following the loss of her job that led her to use and become addicted to methamphetamine, which heavily contributed to the facts underlying the instant convictions.

Ms. Hernandez accepts full responsibility for her involvement in the offenses and deeply regrets her behavior. In her own words to this Court, "I am writing this letter to express how deeply remorseful I am for the criminal acts that I committed. My time in prison has taught me a great number of things, including humility, and patience. . . . Prison has not only taught me how my errors affected me and my family but, it has taught me how it affected others."¹ As she has demonstrated through her behavior in nearly twelve years in prison, she is committed to a life of sobriety and one free from crime.²

b. Ms. Hernandez's incarceration at FCI Tallahassee was marred by sexual abuse perpetrated by a BOP correctional officer

Ms. Hernandez was incarcerated at FCI Tallahassee from approximately July 2015 until August 2022. At FCI Tallahassee she was integral to the recreation program, had a job that gave her purpose, and eagerly participated in BOP programming.³ While there, she had regular access to fresh air and, most importantly, was able to video conference with her two daughters on a regular basis.⁴ All of this changed after Ms. Hernandez bravely came forward in August 2022 to

¹ See Ex. A (Letter to Court, Bonnie Hernandez).

² As of February 15, 2024, Ms. Hernandez has served 81.0% of her statutory term and 69.7% of her full term of imprisonment. See Ex. B (BOP Records). Moreover, under the Sentencing Guideline's recent retroactive amendment, Amendment 821, Part A (§4A1.1(e)), the government agrees that Ms. Hernandez qualifies for a reduction, which would change her release date from September 2026 to approximately October 2025. Taking into consideration the application of this amendment, Ms. Hernandez is asking the Court for a 17-month reduction in sentence.

³ See Ex. B.

⁴ Many of the facts in this section are taken from counsel's conversations with Ms. Hernandez and/or civil proceedings filed in *Hernandez v. United States*, 4:23-cv-00319-MW-MAF, Dkt. 37 (N.D. Fla. May 7, 2024). See also Ex. A.

report that she had been repeatedly sexually abused by Lenton Jerome Hatten, at the time a sports specialist correctional officer at FCI Tallahassee.⁵ Hatten's job was to ensure Ms. Hernandez's safety while in the custody of the BOP. Instead, on numerous occasions, he used his power and authority over her to manipulate and violently abuse her.

Starting in 2019, Lenton Jerome Hatten began grooming Ms. Hernandez for his criminal sexual endeavors.⁶ At the time, Ms. Hernandez had a fulfilling job in the facility as a Wellness Clerk, supervised by Correctional Officer Jackson.⁷ But Hatten removed her as Wellness Clerk and reassigned her as an Administrative Clerk, a position that gave him direct oversight of Ms. Hernandez.⁸ This extra attention lasted for almost a year and escalated to Hatten bringing in contraband for Ms. Hernandez, making sexual comments to Ms. Hernandez, directing her to come to his office alone, and touching her.⁹

Around October 2021, Hatten began sexually abusing Ms. Hernandez.¹⁰ On Saturday and Sundays, Hatten worked a 6am-3pm shift. At 6 am on Saturday and Sundays, as Hatten was starting his shift, he would come to Ms. Hernandez's cell to wake her and take her to a different area of the prison to have sex with her.¹¹ He did this before lights on¹² to keep his criminal conduct secret.

As the sexual abuse continued, Hatten became increasingly violent with Ms. Hernandez. On several occasions, Hatten took Ms. Hernandez from her cell to a room in the prison and locked her in the room. While locked in the room, Hatten had sex with her, holding her by the neck,

⁵ See *Hernandez v. United States*, 4:23-cv-00319-MW-MAF, Dkt. 37 at ¶¶ 1, 33 (N.D. Fla. May 7, 2024).

⁶ *Id.* at ¶ 83.

⁷ *Id.* at ¶ 82.

⁸ *Id.* at ¶¶ 83, 86, 89.

⁹ *Id.* at ¶¶ 82, 84, 86, 87, 88.

¹⁰ *Id.* at ¶ 92.

¹¹ *Id.* at ¶ 88, 92.

¹² *Id.*; see also Bureau of Prisons, Inmate Information Handbook, FCI Tallahassee at 4 (revised Sep. 2015), https://www.bop.gov/locations/institutions/tal/tal_ao-handbook.pdf?v=1.0.2.

choking her and slamming her against the door as he did.¹³ Hatten's violence escalated to the point that, on one occasion, there was so much vaginal bleeding that Ms. Hernandez thought she started menstruating.¹⁴

Hatten was also controlling and jealous. He brought tattoo ink into the prison and demanded that another prisoner use it to cover up a tattoo of Ms. Hernandez's ex-boyfriend's name because he did not want to see another man's name on her body.¹⁵ Ms. Hernandez complied with his demands and, in fact, was committed to the Segregated Housing Unit when another officer found Ms. Hernandez getting the tattoo removed.¹⁶

After nearly a year of escalating sexual violence at the hands of Hatten, Ms. Hernandez feared for her life and safety if she did not take action. She reached the point that she had no choice but to report Hatten's conduct. On August 10, 2022, Ms. Hernandez came forward and alerted prison officials that she had been repeatedly sexually abused by Hatten.¹⁷ That same day, she agreed to submit to a rape kit.¹⁸

Ms. Hernandez was taken to a rape crisis center near the prison, in the custody of other prison guards.¹⁹ Although handcuffed, the guards did not buckle her into the transport vehicle and, while being transported, she was violently tossed around the back of the car, unable to balance or protect herself because she was handcuffed. Once there, she was forced to wait many hours before the clinic was able to perform the exam, which was completed while she was handcuffed and as an officer looked on.

¹³ *Hernandez*, 4:23-cv-00319-MW-MAF, Dkt. 37 at ¶¶ 116-118.

¹⁴ *Id.* at ¶ 121; *see also* Ex. C (Medical Records) at 24-25.

¹⁵ *Hernandez*, 4:23-cv-00319-MW-MAF, Dkt. 37 at ¶ 111.

¹⁶ *Id.*

¹⁷ *Id.* at ¶ 121.

¹⁸ *Id.*

¹⁹ Ex. C at 25.

After the rape kit was performed, Ms. Hernandez reports that the person who performed the rape kit told her that she should take a medication, seemingly to reduce the likelihood of sexually transmitted infections.²⁰ To this day, Ms. Hernandez does not know what she was given, but it made her violently ill. After taking this medication, she was driven back to the prison and placed in the SHU for administrative purposes. She was alone, scared, and ill.

On or about August 12, 2022 – two days after Ms. Hernandez submitted to the rape kit – Nicole Mederos from the Office of Inspector General and an agent from the FBI arrived at FCI Tallahassee to interview her. The investigators extensively questioned Ms. Hernandez regarding the abuse – including a timeline, the pattern and practice of Hatten’s sexual abuse, and the contraband that Hatten brought to Ms. Hernandez.

Early in the morning of August 15 2022, Ms. Hernandez was taken from the SHU at FCI Tallahassee and driven to FDC Miami, a pretrial detention center.²¹ FDC Miami has no outdoor space and no video visit capability. As such, Ms. Hernandez has not been outdoors or had a single video visit with her children in some 21 months.²² Neither in that period of time has she had access to programming or the ability to work and earn money.

c. Lenton Jerome Hatten was convicted and sentenced for repeatedly sexually abusing Ms. Hernandez

On April 4, 2023, Hatten was indicted by the federal government for sexually abusing Ms. Hernandez, a violation of 18 U.S.C. § 2243(b).²³ He pled guilty on May 25, 2023, and was sentenced to three months of incarceration and five years of supervised release.²⁴

²⁰ See *id.* at 23 (Injury Assessment – PREA evaluation encounter performed at Health Services).

²¹ *Hernandez*, 4:23-cv-00319-MW-MA, Dkt. n. 37 at ¶¶ 126-127.

²² See *id.*

²³ *United States v. Hatten*, No. 4:23-cr-18, Dkt. 1 (N.D. Fl. 2023) (available as Ex. D).

²⁴ *Id.* Dkt. 21, 22, 31 (available as Exs. E (Statement of Facts), F (Plea Agreement), G (Judgment)).

Hatten’s prosecution was critical to the Justice Department’s efforts to eliminate predatory sexual behavior in the Bureau of Prisons. The Deputy Attorney General Lisa Monaco said of Hatten’s case, “as this prosecution demonstrates, the Department of Justice remains dedicated to rooting out sexual misconduct at the” BOP.²⁵ FBI Director Paul Abbate said that “[w]ithout exception, all people, including those serving sentences in correctional facilities, are entitled to protection of their physical safety and civil rights . . . thanks to [Ms. Hernandez’s] bravery in coming forward, future abuse has been prevented.”²⁶

Despite the nearly 12 months since Hatten’s sentencing, Ms. Hernandez remains incarcerated and continues to suffer the traumatic effects of Hatten’s assaults. She cannot heal from being repeatedly sexually abused by a BOP guard while she remains in prison.

II. MS. HERNANDEZ HAS PROPERLY EXHAUSTED HER REDUCTION IN SENTENCE REQUEST

Before filing a reduction in sentence motion in court, a defendant must “fully exhaust[] 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.” 18 U.S.C. § 3582(c)(1)(A).

On March 25, 2024, a letter was sent to the Warden at FDC Miami and the Office of General Counsel to the Bureau of Prisons.²⁷ Thirty days has passed since the letter was sent and Ms. Hernandez has received no response.

²⁵ *Department of Justice, Former Federal Correctional Officer Sentenced to Prison for Sexual Abuse of an Inmate*, Press Release (Aug. 24, 2023), <https://www.justice.gov/opa/pr/former-federal-correctional-officer-sentenced-prison-sexual-abuse-inmate>.

²⁶ *Id.*

²⁷ Ex. H (Warden Letter on Behalf of Bonnie Hernandez).

III. LEGAL ARGUMENT

The federal compassionate release statute provides an individual the opportunity to bring a reduction in sentence if there are “extraordinary and compelling” reasons for release and release is consistent with the sentencing factors in 18 U.S.C. § 3553(a) and any “applicable” Sentencing Commission policy statements. 18 U.S.C. § 3582(c)(1)(A). As a victim of sexual abuse by a federal correctional officer who was prosecuted for abusing her, Ms. Hernandez has an extraordinary and compelling reason for release. *See* USSG §1B1.13(b)(4).

a. *The Repeated Sexual Abuse That Ms. Hernandez Endured During Her Time at FCI Tallahassee is an Extraordinary and Compelling Reasons for Release*

BOP’s reputation has been tarnished by grievous and numerous incidences of sexual abuse in BOP facilities.²⁸ The Department of Justice has acknowledged this abuse by prosecuting guards, but most relevant here, by also agreeing to reduction in sentence motions for victims of abuse.²⁹

Largely in response to this, in 2023 the United States Sentencing Commission amended the policy statement governing reductions in sentence under 18 U.S.C. § 3582(c)(1)(A). USSG §1B1.13. It is now a *per se* extraordinary and compelling circumstance to be a “defendant” who “while in custody serving a term of imprisonment sought to be reduced, was a victim of sexual abuse involving a ‘sexual act,’ as defined by 18 U.S.C. § 2246(2) . . . that was committed by . . . a correctional officer . . . of the Bureau of Prisons.” The sexual abuse “must be established by a conviction in a criminal case”

²⁸ *See, e.g.*, CBS News, *Judge Orders Oversight by Special Master at Troubled Dublin Federal Women’s Prison* (Mar. 15, 2024), <https://www.cbsnews.com/sanfrancisco/news/judge-orders-oversight-special-master-troubled-dublin-california-federal-womens-prison-rampant-sexual-abuse/>; ABC News, “*It was like hell: California woman exposes ‘secrets’ of notorious Dublin federal prison* (June 21, 2022), <https://abc7news.com/notorious-federal-prison-fci-dublin-california-rape-club-sexual-assault/11986125/>.

²⁹ *See, e.g.*, Principal Associate Deputy Attorney General, *Report and Recommendation Concerning the Department of Justice’s Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons*, at 22 (Nov. 2, 2022), <https://www.justice.gov/dag/page/file/1549051/download>; Comments on Proposed Amendments, U.S. Dep’t of Justice, Criminal Division, 88 Fed. Reg. 7180 at 391-92 (“The Department agrees that, in certain circumstances, a sentence reduction may be warranted for an individual who suffered sexual assault . . . committed by a correctional officers . . . while in custody.”).

Ms. Hernandez unequivocally meets this standard – she is an identified victim of abuse with an extraordinary and compelling reason to release her from prison. She: (1) is a defendant in custody who was well into her term of imprisonment when; (2) she was a victim of repeated “contact between the penis and the vulva”³⁰; (3) that was committed by former Officer Lenton Jerome Hatten; and (4) Hatten was prosecuted in the Northern District of Florida to 1 count of Sexual Abuse of a Ward, 18 U.S.C. § 2243(b) for “knowingly engag[ing] . . . in a sexual act with B.H.”³¹

Ms. Hernandez was sentenced for the commission of crimes for which she took and continues to take full responsibility – but she was not sentenced to be subjected to sexual abuse at the hands of a prison guard. It goes without saying that this Court did not intend her punishment to include repetitive sexual abuse.³²

Across the U.S. justice system, there has been wide recognition that conduct like Ms. Hernandez suffered is intolerable. Prosecutors across the country have been filing non-oppositions in similar cases, and judges across the country have been granting motions in similar circumstances.³³ In this case, the government does not oppose this motion, recognizing that Ms. Hernandez’s circumstances are extraordinary and compelling and that a reduction to time-served is appropriate.

³⁰ 18 U.S.C. § 2246(2) (defining “sexual act”).

³¹ Ex. D; Ex. G.

³² *See, e.g., United States v. Smith*, 5:10-cr-9, Dkt. 1185 at 6 (C.D. Cal, Feb. 12, 2024) (“Defendant suffered humiliating, degrading, and brutally offensive abuse on an ongoing basis by a federal correctional officer who was entrusted with her care. When the Court sentenced the Defendant, it did not contemplate that Defendant would have to serve her sentence while being subject to such abuse.”).

³³ *See, e.g., United States v. Gomez*, No. 6:19-cr-10055, Dkt. 93 (D. Kan. March 8, 2024); *United States v. Naranjo*, No. 19-cr-591, Dkt. 65, 67 (S.D. Cal 2023); *United States v. Chavira*, No. 18-cv-4216 (S.D. Cal. May 23, 2023).

b. Section 3553(a) weighs in favor of Ms. Hernandez's release

The final analysis this Court must undertake is to determine whether the factors in 18 U.S.C. § 3553(a) favor a reduced sentence. *See* 18 U.S.C. § 3582(c). The § 3553(a) factors unequivocally support reducing Ms. Hernandez's sentence to time served and demonstrate that Ms. Hernandez "is not a danger to the safety of any other person or the community." *See* 18 U.S.C. § 3582(c)(1)(A); USSG §1B1.13(a)(2).

When assessing the sentencing factors, the Court must consider "the most up-to-date picture" of Ms. Hernandez, including post-sentencing rehabilitation.³⁴ In fact, the Supreme Court recently made clear that courts' have "broad discretion to consider all relevant information" in the § 3553(a) analysis.³⁵

As discussed below the § 3553(a) factors here strongly support Ms. Hernandez's immediate release. Although the circumstances of Ms. Hernandez's offense required a significant sentence, this Court likely could not have imagined what would happen to Ms. Hernandez while in custody. For the following reasons, an adjustment to "time served" is appropriate.

1. *Ms. Hernandez's characteristics and post-offense rehabilitation demonstrate that immediate release is appropriate.*

Ms. Hernandez's history, characteristics, and post-offense rehabilitation strongly support release. Ms. Hernandez's letter to this Court is demonstrative of the person she has become during her time in custody:

My process of rehabilitation has opened my eyes and has given me hope. Hope to have a better life for myself, and my family. I have also learned that I want to contribute to the same community that I have hurt with my prior actions. . . . I plan to advocate for the dangerous effects and consequences for drug use and drug abuse.

³⁴ *See Pepper v. United States*, 562 U.S. 476, 490-93 (2011).

³⁵ *Concepcion v. United States*, 142 S. Ct. 2389, 2398 (2022) (judges have a "responsibility" to consider "the whole person before him or her" when modifying a sentence).

Another thing that I would like to express is the importance of accountability for actions. During my incarceration, I have learned that being accountable for my actions was the beginning of my healing process. Since I began to heal I have demonstrated to myself, my family, and my peers that I am capable of leading a life of positivity and good actions.

While in custody, Ms. Hernandez participated in significant programming. She completed programming aimed at drug rehabilitation³⁶ (RDAP and two 40+ hours of drug education classes), mental stability³⁷ (Values, Goal Setting; Problem Solving; Anger Management; Personal Development; Managing Stress; Managing Emotions; Coping Skills, etc.), and employment skills³⁸ (Job Placement Assistance, Continuing education Tutor/Instructor, Dialysis Tech Part 1; Dialysis Tech Part 2; Number Sense and Operations; Advanced Computer; ACE- Money Management Skills, etc.). She is also deeply intelligent and has taken classes to for her own intellectual endeavors, including Civics and Government, US History – Our Presidents, and fiction writing.

Most important to Ms. Hernandez, she is committed to her children. As her oldest daughter Bailey said, “I have seen so much growth and change in her even from a far [sic] in jail. There has never been a time that she has not kept in contact with me or my little sister, anytime I am sad or just going through hard times and need advice I know I can always count on her”³⁹ Speaking to her rehabilitation, Bailey said “I truly believe she is a better person and this has taught her so much.”⁴⁰

³⁶ Ex. B at 2 -3.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Ex. I, Letter from Bailey Hill.

⁴⁰ *Id.*

2. *Reducing Ms. Hernandez's sentence will not diminish the seriousness of the offense and provides a just punishment while also promoting respect for the law.*

Ms. Hernandez's crime was serious. She was the leader of a drug trafficking organization. Drug trafficking crimes impact not just the person who committed the crime but the community in which the drugs are distributed. Ms. Hernandez recognizes this and is intent on giving back to her community by volunteering to educate youth on the harms of substance abuse.⁴¹

Ms. Hernandez has served nearly twelve years in prison.⁴² And that time has been marred by horrific sexual abuse. When an individual suffers sexual abuse in custody, the experience in prison is forever changed. The continued incarceration of a person, like Ms. Hernandez, who was repeatedly sexually abused by a prison guard makes the punishment so severe that early release can be justified. No one, no matter the crime, should be sentenced to a term of imprisonment that includes repeated sexual abuse, particularly abuse that is perpetrated by law enforcement officials charged with protecting them while in custody. Given the conditions under which Ms. Hernandez has had to serve many years of her sentence, a sentence reduction to time served is appropriate.

As the U.S. Attorney for the Northern District of Florida said in commenting on the prosecution of Ms. Hernandez's abuser, "[s]entences of confinement are imposed to account for the inmate's criminal conduct and afford educational and vocational skills to aid in rehabilitation. The inmate's dignity and safety are not surrendered at the prison door."⁴³ Ms. Hernandez's dignity has been taken away from her. The punishment imposed has been all the more extreme given the abuse that Ms. Hernandez endured.

⁴¹ Ex. A.

⁴² See *supra* n. 2; In twelve years in custody, Ms. Hernandez had only four disciplinary infractions, two of which related to Hatten's abuse. Her most recent infraction was in January 2023 and involved the misuse of an authorized medication (antibiotics) which she was prescribed for a tooth abscess. Ex. B at 3; Ex. C at 6-7.

⁴³ See *supra* n. 25.

To be clear, “not every defendant who has an unpleasant experience in prison is entitled to a reduction in sentence. But when a defendant experiences a hardship that is . . . beyond the heartland of ordinary disparities” continued incarceration risks “enhancing to a disproportionate degree, the level of punishment contemplated.”⁴⁴ So it is here.

Similarly, law enforcement malfeasance against an incarcerated person does not “promote respect for the law.” 18 U.S.C. § 3553(a)(2)(A). This is particularly so when a law enforcement official has himself committed a crime against an incarcerated person.⁴⁵ Officer Hatten’s actions demonstrated complete disregard for the law. He took advantage of his position of power and repeatedly abused Ms. Hernandez. Ms. Hernandez, on the other hand, helped promote respect for the law by advancing the prosecution against her abuser. Her “bravery in coming forward” helped prevent “future abuse.”⁴⁶

3. *Ms. Hernandez is committed to a life free from crime and her time in custody has specifically deterred her from future criminal conduct.*

At the time of sentencing, the Court rightfully accounted for deterrence from future criminal conduct. 18 U.S.C. § 3553(a)(2)(B). This Court’s words to Ms. Hernandez were impactful: “hopefully you have truly learned your lesson from this, and you want to set the right example for your kids. You can’t undo what you’ve already done. All you can do is exhibit the right attitude about the debt that you owe and the fact that you have to take responsibility for that . . .” (Doc. 229).

Ms. Hernandez has taken these words to heart and is committed to a life of sobriety, free from crime. She cannot take back the years that she was away, but she has demonstrated the right

⁴⁴ *United States v. Brice*, 2022 WL 17721031, at *4 (E.D. Pa. 2022).

⁴⁵ *See United States v. Paxton*, 13-CR-0103, 2018 WL 4504160, at *2-3 (N.D. Ill. Sept. 20, 2018) (explaining that “[r]espect for the law begins with respect for the people and institutions that are sworn to enforce and protect the law”).

⁴⁶ *Supra* n. 25.

attitude in participating in significant programming at BOP and by reporting Hatten's abuse. Ms. Hernandez is intent on being there for her children and grandchild.⁴⁷ Her children are one of the strongest deterrents she has against future criminal activity. When she left for prison, her daughters were 10 and 18 years old. They are now both adults, 20 and 28 years old, who would greatly benefit from having their mother around.

In addition, Ms. Hernandez's criminal activity was related to substance abuse, namely, the use of methamphetamine. She has been sober during her time in custody, successfully completed RDAP, as well as two additional 40+ hour drug education courses, and is committed to sobriety. In Ms. Hernandez's own words:

*Being sober has cleared my mind I not only lost time with my family because of incarceration, I also lost time because I was high. I can never get that time back nor can I ever make it up to my loved ones. What I can do is be the best [family member] that I can be. I can do it by being present, being a positive role model, and an example to follow. Being high was a prison in its own right. I was just too high to see it that way. Now, I am free of it and I never want to see the inside of that prison ever again!*⁴⁸

4. *Ms. Hernandez seeks to participate in treatment and programming in the community upon release.*

Recidivism decreases when individuals can receive proper treatment.⁴⁹ A sentence imposed should "provide the defendant with needed educational or vocational training." 18 U.S.C. § 3553(a)(2)(D). Ms. Hernandez participated in significant programming while at FCI Tallahassee. As discussed above, she took courses including, "money management skills," "Values, goal setting," "40-hour drug education," "managing emotions," "among others. This programming had been very beneficial, giving her purpose and providing her skills that can

⁴⁷ Ex. A.

⁴⁸ *Id.*

⁴⁹ Kristen M. Zgoba, et. al, *Criminal Recidivism in Inmates with Mental Illness and Substance Use Disorders*, 48 J. AM. ACAD. PSYCHIATRIC LAW 2, 2 (2020).

transfer to employment when she is released. However, since her transfer to FDC Miami, there has been no programming available for her to partake in. Ms. Hernandez has received no educational or vocational training since August 2022. If released, however, she will be able to enroll in classes, attend substance abuse counseling, as well as trauma centers in the nearby area that are equipped to help advance her skills and also cope with what she has lived through.

5. *Ms. Hernandez's release plan ensures that she will thrive in the community and she has strong family support.*

Ms. Hernandez longs to spend time with her children, her grandchild, and her parents. If released, she will live with her parents Craig (step-father) and Julie Eggleston (biological mother) who reside at 514 N.E. Mimosa Dr., Lee's Summit, Missouri, 64086. Craig is a former United States Marine who worked in security after his service. Ms. Hernandez has described her parents as "running a tight ship." In fact, that is why she wants to go back home, a place she has not lived since she was seventeen years old. She is committed to her sobriety and to healing her relationship with her family members and her community. And she knows that living with her parents will provide her with both the structure and support to do just that.

After her release, she will be supported by her parents but also will immediately begin looking for employment.⁵⁰ She is aware that her criminal record might make it difficult to secure employment but is intent on earning her keep. Many of the courses she took during her time in prison were specifically aimed at readying her for employment upon release.

Additionally, the greater Kansas City region has numerous outpatient facilities that can address not only Ms. Hernandez's substance use disorder, but importantly, can also treat the acute trauma she lives with daily from being sexually abused in BOP. For example, Aspire Counseling,

⁵⁰ Ex. A; Ex. I

which has a location in her hometown of Lee's Summit offers specialized trauma therapy.⁵¹ Aspire Counseling even offers a free e-course on coping mechanisms for Post Traumatic Stress Disorder (PTSD) to help people cope with trauma. In addition, Ms. Hernandez is interested in participating in a specialized outpatient treatment program for PTSD at Signature Psychiatric Hospital in Kansas City, Missouri.⁵² To help pay for treatment and therapy, Ms. Hernandez would enroll in Missouri's Medicaid program upon release.

IV. CONCLUSION

Ms. Hernandez has served nearly her entire sentence. She was repeatedly sexually abused by a fired, prosecuted, convicted and incarcerated former correctional officer. She squarely meets the grounds for extraordinary and compelling circumstances set forth in USSG §1B1.13(b)(4) and can be safely released to the community. The government does not oppose this motion.

In commenting on the successful prosecution of Ms. Hernandez's abuser, Inspector General Horowitz said that "[n]o inmate should ever experience sexual abuse or abuse of any kind at the hands of a Bureau of Prisons employee. [The government] will continue to aggressively pursue justice for victims of heinous acts."⁵³ Justice for Bonnie Hernandez is reducing her sentence to time served.

WHEREFORE, for the reasons stated above and in the interest of justice, Ms. Hernandez respectfully requests that this Court forthwith reduce her sentence to time served and order her immediate release from custody pursuant to the terms of this Court's Judgment and Conviction (Doc. 210).

⁵¹ See Aspire Counseling, <https://aspirecounselingmo.com/> (last visited, May 14, 2024).

⁵² See Signature Psychiatric Hospital, <https://www.sphkc.net/disorders/ptsd/> (last visited, May 14, 2024).

⁵³ See *supra* n. 25.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2024, I electronically filed the foregoing through the Court's CM/ECF system which will send notifications to all counsel of record.

Respectfully submitted,

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APPENDIX B

Order Granting Motion to Reduce Sentence

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 12-00378-02-CR-W-GAF
)	
BONNIE CORTEZ HERNANDEZ,)	
)	
Defendant.)	

ORDER GRANTING MOTION TO REDUCE SENTENCE

Now before the Court is defendant’s Motion to Reduce Sentence Pursuant to Title 18 U.S.C. § 3582(c)(1)(A)(i) (Doc. 383). Having considered defendant’s motion, the Court finds extraordinary and compelling reasons for defendant to be granted compassionate release consistent with the sentencing factors set forth in 18 U.S.C. § 3553(a). Accordingly, it is

ORDERED that defendant’s Motion to Reduce Sentence Pursuant to Title 18 U.S.C. § 3582(c)(1)(A)(i) (Doc. 383) is granted. The defendant is ordered released from the custody of the Bureau of Prisons to begin her term of supervised release upon the earliest of the following occurring: (a) approval of an appropriate home placement plan, (b) approval of appropriate residential center placement or (c) 30 after days having expired from the date of this Order.

s/ Gary A. Fenner
GARY A. FENNER
UNITED STATES DISTRICT JUDGE

DATED: May 22, 2024