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5 PRO SE

6 UNITED STATES DISTRICT COURT
7 FOR THE WESTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA,) Case No. 2:21-cr-00026
9)
10 Plaintiff,) **DEFENDANT’S NOTICE OF MOTION**
11 v.) **AND MOTION TO TERMINATE**
12 WAY QUOE LONG,) **SUPERVISED RELEASE**
13)
14 Defendants.) Date: April 8, 2022
15) Place: The Courtroom of the Honorable
16) Robert S. Lasnik
17)

18 TO ALL PARTIES AND COUNSEL OF RECORD:

19 PLEASE TAKE NOTICE that on April 8, 2022, in the Courtroom of the Honorable Robert S.
20 Lasnik, or as soon thereafter as this matter may be heard, defendant Way Quoe Long will and hereby
21 does move this Court for an order granting his motion to terminate supervised release. This motion is
22 based on this notice of motion and memorandum of points and authorities in support thereof; 18
23 U.S.C. §§ 3553 and 3583(e)(1), and all statutory authority cited; the arguments presented at the
24 hearing, if any; and the records of this case.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 All too frequently forgotten in our criminal justice system are those criminal defendants who
4 have served their terms of incarceration, yet remain under federal supervision far more than is
5 necessary to serve its rehabilitative goals. Not only does this hinder the person’s ability to fully
6 reintegrate into society, but it wastes scarce judicial resources. Unlike incarceration, which is
7 punitive in nature, the purpose of supervised release is to assist individuals in their transition to
8 community life. Mr. Long has performed his supervised term commendably – he has secured steady
9 employment, maintained a stable family life, and has not committed any crimes. Unfortunately, more
10 recently, Mr. Long suffered a stroke on or about February 13, 2022, which has left him with only half
11 of his vision and serious memory loss. Despite the praiseworthy efforts Mr. Long has taken to
12 reintegrate himself into society and his recent disability, he needlessly remains under the supervision
13 of the United States Probation Department based on his five-year mandatory term of supervised
14 release. Under 18 U.S.C. § 3583(e)(1), this Court has the authority to terminate supervised release
15 after one year for individuals like Mr. Long, even if they are subject to a mandatory minimum
16 supervised release term. For this reason and others, Mr. Long respectfully requests this Court to
17 grant the instant motion to terminate the remainder of Mr. Long’s five-year term of supervised
18 release.

19 **STATEMENT OF FACTS**

20 Way Quoe Long (“Long”) is a fifty-nine year-old man who was arrested on May 28, 1996, for
21 conspiracy to manufacture and distribute marijuana and related offenses. (See Dkt. Nos. 1, 7 [Case
22 No. 1:96-cr-05135-DAD (E.D. Cal.)].) On March 16, 1998, Long was sentenced to 240 months of
23 incarceration for conspiracy to manufacture and distribute marijuana and operating a continuing
24 criminal enterprise and to an additional 360 months of incarceration for carrying a firearm during a
25 drug trafficking offense. (See Dkt. No. 105 [Case No. 1:96-cr-05135-DAD (E.D. Cal.)].) As
26 relevant here, Long was also sentenced to a mandatory term of 60 months of supervised release. *Id.*

27 On January 19, 2021, after Long had served nearly 25 years of his fifty-year term of
28 incarceration, then President of the United States, Donald Trump, commuted Long’s sentence to time

1 served, but leaving intact his five-year term of supervised release. (See Dkt. No. 214 [Case No. 1:96-
2 cr-05135-DAD (E.D. Cal.)].) Since his release from prison on or about January 25, 2021, Mr. Long
3 has served more than one-year of his supervised release term without incident. Until his stroke on or
4 about February 13, 2022, Mr. Long maintained steady employment manufacturing door frames with
5 Assa Abloy Manufacturing Company. He maintains a stable family life and lives with his sister and
6 her husband, which provides him stability despite being unable to work at this time. During Long’s
7 incarceration, he was a model inmate with fewer than five minor prison rule violations. He has not
8 committed any crimes in the last year while on supervised release.

9 On February 10, 2021, the United States District Court for the Eastern District of California
10 transferred jurisdiction over this matter to this Court, “expressly consent[ing] that the period of
11 Supervised Release may be changed by the District Court to which this transfer is made without
12 further inquiry of [the Eastern District of California].” (Dkt. No. 1; see Dkt. No. 215 [Case No. 1:96-
13 cr-05135-DAD (E.D. Cal.)].) Under the terms of this transfer and 18 U.S.C. § 3583(e)(1), this Court
14 is authorized to grant the instant motion to terminate Mr. Long’s supervised release. The United
15 States Probation Office does not object to the granting of this Motion, in large part, because it has
16 assigned him a “low” risk assessment.

17 LEGAL STANDARDS

18 The Supreme Court has announced that the purpose of supervision is not to punish
19 individuals, but to assist them in their transition to community life. *United States v. Johnson*, 529
20 U.S 53, 59 (2000) (“Supervised release fulfills rehabilitative ends, distinct from those served by
21 incarceration”) (citations omitted); *see also* S.Rep. No. 98-225, p. 124 (1983) (declaring that “the
22 primary goal [of supervised release] is to ease the defendant’s transition into the community after the
23 service of a long prison term for a particularly serious offense”); *United States v. Shaw*, -- F.Supp.3d
24 --, 2020 WL 1062896 (D. Colo. March 5, 2020) (noting “shift in focus from coercing a person to act
25 lawfully to monitoring and fostering a person’s ability to self-manage lawful behavior and desire to
26 act lawfully”); *United States v. Trotter*, 321 F.Supp.3d 337, 339-41 (E.D.N.Y. July 12, 2018)
27 (“Supervised release is designed to assist with rehabilitation, not to punish”). To this end, 18 U.S.C.
28 § 3583(e)(1) authorizes the court, after considering the factors set forth in 18 U.S.C. § 3553 to

1 terminate supervised release “at any time after the expiration of one year of supervised release” and
2 “is satisfied that such action is warranted by the conduct of the defendant released and the interest of
3 justice.” 18 U.S.C. § 3583(e)(1); *United States v. Harris*, 689 F.Supp.2d 692, 694 (S.D.N.Y. 2010).
4 After one year of supervised release, the court is authorized to terminate it any time thereafter, even if
5 the defendant was initially sentenced to a mandatory minimum supervised release term. *See, e.g.*,
6 *United States v. Spinelle*, 41 F.3d 1056, 1060 (6th Cir. 1994).

7 Under section 3553, the factors the courts must consider in ruling on motions to terminate
8 supervision are as follows:

9 [T]he nature and circumstances of the offense and the characteristics of the defendant;
10 the need for the sentence to reflect the seriousness of the offense, promote respect for
11 the law and provide just punishment for the offense; afford adequate deterrence to
12 criminal conduct; protect the public from further crimes of the defendant; provide the
13 defendant with needed educational or vocational training, medical care, or to other
14 correctional treatment; the kinds sentence and sentencing range established for the
15 applicable category of offense committed by the applicable category of offense as set
16 forth in the Sentencing Guidelines; and pertinent policy statement issued by the
17 Sentencing Commission; the need to avoid unwarranted sentencing disparities; and the
18 need to provide restitution to victims of the offense.

16 *Harris*, 689 F.Supp.2d at 694, n.3. After imposing a supervised release term, the court may consider
17 equitable factors, such as the conduct of the defendant and the interest of justice, as a basis to modify
18 or terminate his conditions of supervised release. *See Johnson*, 529 U.S. at 60 (citing 18 U.S.C. §
19 3583(e)(2)). “The public interest is best served by terminating supervise release [in appropriate
20 circumstances], which will allow the Probation Office to invest the public’s limited resources on
21 those who are in need of supervision. Clearly there is no benefit to be derived by maintaining a
22 supervised release at public expense over someone who has proven himself to be beyond
23 supervision.” *United States v. Chapman*, 827 F.Supp. 369, 372 (E.D. Va. 1993); *see United States v.*
24 *Corbett*, 2019 WL 2110367, at *1 (D. Idaho May 14, 2019) (“The public interest is no longer served
25 by expending taxpayer funds (even at a reduced level) to monitor Mr. Corbett's activities.
26 Accordingly, it is in the interest of justice to terminate Mr. Corbett's supervised release”); *see also*
27 *United States v. Trotter*, 321 F.Supp.3d 337, 339-41 (E.D.N.Y. July 12, 2018) (“As a result in these
28 errors in our sentencing practice [for habitual marijuana users], money and the time of our probation

1 officers are wasted, and supervisees are unnecessarily burdened” “The cost to tax-payers of long,
2 repeating sentences and extended, unnecessary supervised release is substantial”).¹

3 ARGUMENT

4 EARLY TERMINATION OF LONG’S TERM OF SUPERVISED RELEASE IS IN THE 5 INTEREST OF JUSTICE

6 As noted, 18 U.S.C § 3583(e)(2) authorizes federal courts to terminate an individual’s
7 supervised release “at any time after the expiration of one year . . . if it is satisfied that such action is
8 warranted by the conduct of the defendant released and the interest of justice.” Such is the case here.
9 Long was a model inmate during his nearly twenty-five years of incarceration -- he was written up
10 fewer than five times for minor prison rules violations in that lengthy period. He has maintained a
11 stable relationship with his family and lives with his sister and brother at their home. *Cf. United*
12 *States v. Shaw*, __ F.Supp.3d __, 2020 WL 1062896, at *5 (D. Colo. Mar. 5, 2020) (“Mr. Shaw’s
13 deep relationship with his partner . . . demonstrates that he is motivated to remain a law-abiding
14 citizen beyond the term of supervised release”). Especially in light of Long’s “low risk” assessment
15 performed by the Probation Office and the stroke he recently suffered, “the general interests that
16 undergird sentencing decisions will not be impeded by this early termination.” *See id.*; *see also*
17 *United States v. Schuster*, 2002 WL 31098493, at *1 (S.D.N.Y. Sept. 19, 2002) (“It is of value both to
18 defendant and his family and also to the community for [defendant] to obtain productive employment
19 which utilizes his considerable talents. It is distinctly possible that termination of defendant’s
20 probation will assist in this regard”).

21 As of the time of this writing, the United States Attorney’s Office for the Western District of
22 Washington has indicated that it will oppose the instant request for early termination of supervised
23 release because Mr. Long was convicted of carrying a sniper rifle with a laser site and a machine gun
24 with a silencer in connection with his offense, as well as discarding a third gun when chased by
25

26 ¹ In *Trotter*, Judge Weinstein pointed out that the terms and conditions of supervised release are often
27 ignored by defense counsel, Assistant United States Attorneys, and the courts. *Trotter*, 321
28 F.Supp.3d at 340. “Going forward, more careful consideration attention should be given to the
potential of supervised release, and its duration, to help—or to prevent—rehabilitation.” *Id.*; *see id.*
at 365 (recommending that courts automatically raise the issue of early termination of supervised
release in all cases after one year, since 18 U.S.C. § 3583 is hardly used).

1 officers. (See PSR 11, 13) The purpose of supervised release, however, is not to punish individuals,
2 but to assist them in their transition to community life. *United States v. Johnson*, 529 U.S 53, 59
3 (2000). Mr. Long has already been punished severely for his firearm possession – a 30-year
4 enhanced term of incarceration for these transgressions. They should not be continued to be used
5 against him for purposes of supervised release, which is designed to be rehabilitative, rather than
6 punitive. This is especially so where Mr. Long did not actually use any of these weapons during in
7 the commission of his offense more than twenty five years ago and he is now incapacitated from the
8 stroke he recently suffered. In short, there is absolutely no reason to believe that Mr. Long will
9 obtain, much less use, a firearm if his supervised release is terminated.²

10 In *In re Elkins*, 144 Cal.App.4th 475, 500 (2006), which addressed a defendant’s suitability
11 for parole in light of his heinous crime of beating a man to death with a baseball bat and disposing the
12 body in a remote area, the court the court concluded that the nature of the commitment offense did
13 not support the Governor's conclusion that Elkins continued to pose an unreasonable risk of danger to
14 society if released. *Id.* at 495-503. Quoting *Rosenkrantz v. Marshall*, 444 F.Supp.2d 1063, 1065
15 (C.D. Cal. 2006), the *Elkins* court held:

16 While relying upon petitioner’s crime as an indicator of his dangerousness may be
17 reasonable for some period of time, in this case, continued reliance on such
18 unchanging circumstances—after nearly two decades of incarceration . . . —violates
19 due process because petitioner’s commitment offense has become such an unreliable
20 predictor of his present and future dangerousness that it does not satisfy the “some
21 evidence” [of future dangerousness] standard. After nearly twenty years of
22 rehabilitation, the ability to predict a prisoner's future dangerousness based simply on
23 the circumstances of his or her crime is nil. [Citations.]

22 ² It also appears that the government is objecting to the instant motion because Mr. Long has not yet
23 served half of his five-year term of supervised release. In rejecting a similar prosecutorial objection
24 to the early termination of supervised release in *United States v. Lyons*, 2020 WL 7769782, at *1-*2
25 (D. Md. Dec. 30, 2020) (Slip Copy), the court cited 18 U.S.C § 3583(e)(2), which expressly
26 authorizes federal courts to terminate an individual’s supervised release “at any time after the
27 expiration of one year . . . if it is satisfied that such action is warranted by the conduct of the
28 defendant released and the interest of justice.” See also *United States v. Lowe*, 632 F.3d 996, 998-99
(7th Cir. 2011) (holding that court’s general policy of denying motions for early termination of
supervised release until the defendant has less than a year remaining on his term of supervised release
conflicts with 18 U.S.C § 3583(e)(2)); *United States v. Reid*, 2020 WL 2512417, at *1-*2 (D. Md.
May 15, 2020) (rejecting government’s objection to early termination of supervised release because
defendant was not yet halfway through his supervised release term).

1 *Id.* at 500 9quoting *Rosenkrantz*). A far more reliable indicator of Long’s future dangerousness is the
2 Probation Office’s more recent determination that his risk assessment is “low.”

3 In addition to the Probation Office’s low risk assessment of Long, he has recently been
4 debilitated by a stroke, which has left him with only half of his vision and greatly impairs his
5 memory. In *United States v. Chapman*, 827 F.Supp. 369 (E.D. Va. 1993), the court granted
6 defendant’s motion for early termination of supervised release after he served one year of his term of
7 supervised release for a firearms offense. *Id.* at 371-72. The court observed that the defendant had
8 been debilitated by a back injury and no longer has any involvement in firearms. *Id.* at 371. It
9 concluded: “[T]he deterrent value of this case has been fully realized, and there is no longer any need
10 to keep the defendant on supervised release.” *Id.*; see also *United States v. Shaw*, -- F.Supp.3d --,
11 2020 WL 1062896 (D. Colo. Mar. 5, 2020) (granting defendant’s motion for early termination of
12 supervised release for conviction of armed robbery); *United States v. Reid*, 2020 WL 2512417, at *1-
13 *2 (D. Md. May 15, 2020) (granting defendant’s motion for early termination of supervised release
14 over government’s objections based on the seriousness of the crime and the fact that defendant had
15 not yet served half of his supervised release term; noting that the District of Maryland’s Early
16 Termination Policy authorizes early termination of supervised release after one year for defendants
17 with a “low risk” assessment).

18 Thus, as was true in *United States v. Chapman*, 827 F.Supp. 369 (E.D. Va. 1993):

19 The public interest is best served by terminating the supervised release, which
20 will allow the Probation Office to invest the public’s limited resources on those who
21 are in need of supervision. Clearly there is no benefit to be derived by maintaining a
22 supervised release at public expense over someone who has proven himself to be
beyond the need for supervision.

23 *Id.* at 371.

24 To like effect, in *United States v. Harris*, 689 F.Supp.2d 692 (S.D.N.Y. 2010), the court held:
25 “[The defendant’s] conduct post-conviction has been beyond reproach. He was apparently a model
26 prisoner during a long term of incarceration. He has fully complied with the terms and conditions of
27 supervised release. He has obtained and is pursuing productive employment. He is caring for his
28 family.” *Id.* at 694. The court in *Harris* concluded by framing the question presented as follows:

1 There are two possible resolutions to this case. The Court can terminate
2 Harris’ supervised release, do away with crippling obstacles to his professional
3 advancement, and make straight his path to rehabilitation and redemption. Or the
4 Court can require Harris to serve his full term of supervised release, leave him blocked
5 and at risk in his employment, and confer no benefit or any significance upon the
6 victimized banks. Which resolution is “in the interest of justice?” The question is not
7 close. Justice requires the termination of Harris’ supervised release.

8 *Id.* at 696.

9 As in *Harris* and the other cases cited, Long’s conduct while on supervised release has been
10 exemplary -- he secured steady employment, maintained a stable family life, and has not committed
11 any crimes. Numerous courts have terminated supervised release early under similar circumstances.
12 *See, e.g., United States v. Spinelle*, 41 F.3d 1056, 1061 (6th Cir. 1994) (affirming trial court order
13 terminating supervised release where defendant served one-year of five-year term for manufacturing
14 marijuana); *United States v. Shaw*, -- F.Supp.3d --, 2020 WL 1062896 (D. Colo. Mar. 5, 2020)
15 (granting motion to terminate supervised release for armed robbery; noting “[t]his court has
16 frequently granted motions for early termination”) (collecting cases). “[B]y present-day measures of
17 sentences suitable to Defendant and his crime, the . . . Defendant has been punished sufficiently for
18 the crime that he committed [] decade[s] ago.” *Johnson*, 228 F.Supp.3d 57, 63-64 (D.D.C. 2017).

19
20
21 **CONCLUSION**

22 For the foregoing reasons, Long respectfully requests this Court to grant the instant motion for
23 the early termination of his supervised release.
24

25 DATED: March 31, 2022

26 Respectfully Submitted

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28 _____
 WAY QUOE LONG

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of California over the age of eighteen years and not a party to this
3 action. My home address is 4015 120th Avenue, SE, Bellevue, WA 98006. On March 31, 2022, I
4 served the within document:

5 **DEFENDANT’S MOTION FOR EARLY TERMINATION OF SUPERVISED RELEASE**

6 via first-class mail upon:

7 Thomas Woods
8 Assistant United States Attorney
9 700 Stewart Street #5220
Seattle, WA 98101

10 I declare under penalty of perjury under the laws of the State of California that the above is true
11 and correct.

12 Executed on this 31st day of March, 2022, in Bellevue, Washington.

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14 _____
15 YOKO LONG
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