

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA

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United States of America, Index #94 Cr. 01009 (MP)(GRJ)  
Plaintiff,

-v-

John Knock,  
Defendant/Movant.  
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**NOTICE OF MOTION TO REDUCE SENTENCE PURSUANT TO  
“FIRST STEP ACT” 18 U.S.C. 3582(c)(1)(A)(i)**

PLEASE TAKE NOTICE that, Defendant/Movant, **JOHN KNOCK**, Federal Inmate #11150-017, through his counsel, The Law Offices of David Clifford Holland, P.C., shall move this Court based upon the Affirmation of David C. Holland, Esq., dated March 10, 2020, the request of John Knock seeking Compassionate Release/Reduction in Sentence (“RIS”) dated October 2, 2019, Denial of Petitioner Knock’s RIS Request dated December 4, 2019, and upon the exhibits attached thereto, on the 31<sup>st</sup> Day of March, 2020, at 9:30 o’clock in the forenoon, or as soon thereafter as the parties may be heard in the United States District Court for the Northern District of Florida, Gainesville Division, located at 401 S.E. First Avenue, Gainesville, Florida 32601, for an Order:

1. Pursuant to the newly-amended *18 U.S.C. 3582(c)(1)(A)(i)* “**FIRST STEP ACT**”, seeking immediate reduction of his two life sentences without the opportunity of parole (“LWOP”), plus 20 years imprisonment;

2. Immediate release from FCI Fairton where his is presently imprisoned;
3. Imposition of any appropriate post-release supervision; and
4. Such other and further relief as this Court may deem necessary and just.

All preliminary requirements under the First Step Act have been satisfied and more than 30 days have elapsed between Defendant/Movant's request for compassionate release and the denial of that request on December 4, 2019. All other administrative remedies have been exhausted. Jurisdiction is thereby conferred upon this Court to entertain this "defense" motion pursuant to *18 U.S.C. 3582(c)(1)(A)(i)*.

The exceptional and compelling circumstances of Mr. Knock's case warrant such exceptional and compelling relief. No prior application has been made by Defendant/Movant Knock seeking similar relief in any federal court.

Dated: New York, New York  
March 10, 2020

The Law Offices of David Clifford Holland, P.C.

/s/

By: David C. Holland, Esq. (*Pro Hac Vice*)  
*Pro Bono* Counsel for Petitioner, John Knock  
201 East 28<sup>th</sup> Street – Suite 2R  
New York, New York 10016  
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### **Overview of Motion**

John Knock is a non-violent 72 year old first time offender who has served more than 20 years of his two Life sentences without the possibility of parole (“LWOP”) plus 20 years for marijuana related offenses. Those draconian sentences are rarely imposed today due to the change of societal attitudes towards marijuana as well as the now advisory status of the United States Sentencing Guidelines (“USSG”) which mandated the “LWOP” sentences plus 20 years imposed on Knock in the year 2000.

In the decades since he was sentenced, 33 States have legalized cannabis in some form including 11 which permit adult use and commercial activity despite the continuing Schedule I status of marijuana under the federal Controlled Substances Act (“CSA”). Today, federal marijuana offenders tend to receive sentences of less than a decade, not double life without the opportunity of parole plus 20 years mandated by the Guidelines in the year 2000.

Having previously exhausted all administrative remedies, John now qualifies for and seeks relief from this Court pursuant to *18 U.S.C. 3582(c)(1)(A)(i)* known as the “FIRST STEP ACT”. This Court, once bound by the mandatory nature of the Sentencing Guidelines, is now empowered decades after all post-conviction remedies have been long exhausted, to grant the motion and resentence him to

“time served” and post-release supervision based upon the extraordinary and compelling circumstances of John’s case.

**The Evidence In Support Of The Motion**

The following numbered Exhibits are true and accurate copies of documents previously filed by John Knock as part of his rejected request for Compassionate Release:

1. Indictment and Superseding Indictment
2. Presentence Report dated 10/26/2000 and released by Magistrate Jones to Knock on January 31, 2012
3. John Knock Request for Compassionate Release dated 12/11/2019

3-1 Letter from John Knock to Warden

3-2 Letter from Beth Curtis

3-3 Letter from Naomi Phillips

3-4 Letter from William Deckle

3-5 Profile of John Knock from Life For Pot

3-6 Life Expectancy of Incarcerated Individuals

3-7 “Second Looks and Second Chances”

3-8 Compassionate Release Motion – Larry Duke  
-life sentence reduced to time served

3-9 Certificates of Completion and course credits

earned by John Knock while incarcerated

3-10 Psychology Services Evaluation re  
John Knock Preparation for Early Release

3-11 “Pre-Release” Certificate of Completion

3-12 Job Offer from PHR Associates

3-13 Article, “*The Trial Penalty, The Sixth  
Amendment Right to Trial on the Verge of  
Extinction and How To Save It*”

3-14 Letter from Advocat, Jean Pierre Spitzer

3-15 Sentencing Chart of “Marijuana Kingpins”

3-16 Chart, “Key Mean Sentencing For  
Comparative Sentencing Chart Criminal  
History Category I”

3-17 Chart, “Average Prison Sentence by  
Primary Drug Type”

3-18 John Knock Medical Condition

3-19 Chart, “Rearrest Rates for Recidivism Study  
Offenders by Age of Release”

4. Acting Warden Jamison Denial of John Knock  
Request For Compassionate Release dated  
12/4/2019

5. “*Petition For Clemency To Relieve Five Elderly  
Petitioners From Life Without Parole Sentences  
For Marijuana*”

**Preliminary Background of Arrest, Extradition And Trial**

John, while living overseas, was indicted in the Northern District of Florida in 1994. *Exhibit 1*. He was arrested in Paris, France on April 17, 1996 and held in the Prisons de la Sante until 1999 when he was extradited to the United States. *Exhibit 2*. His extradition occurred after the U.S. Department of Justice and the French Ministry of Justice reached an alleged agreement as to the maximum sentence of 20 years which could be imposed upon Knock in order to satisfy the extradition treaty between the nations. *Exhibit 3-14*. It is pretty clear that the U.S. Department of Justice falsely induced Knock's extradition as explained further in the attached letter of Attorney Jean Pierre Spitzer to President Trump in September, 2018. *Exhibit 3-14*. John Knock was remanded without bail after his transfer to the United States on January 28, 1999 and has been in custody ever since.

By superseding indictment, John and numerous others were charged with participation in a non-violent multi-national European based marijuana distribution conspiracy which operated from 1982 through April 17, 1996. *Exhibit 1*. He was specifically charged in the Superseding Indictment and later found guilty of (1) Conspiracy to distribute marijuana in violation of 21 U.S.C. 841(a)(1), 841(b)(1)(A)(vii) and 21 U.S.C. 846; (2) Conspiracy to import marijuana in violation of 21 U.S.C. 952 and 960(b)(1)(G) and 21 U.S.C. 693; (3) Conspiracy to transport funds in violation of 18 U.S.C. 1956(a)(2)(A), 18 U.S.C. 1956(h); and (4) Criminal forfeiture pursuant to 21 U.S.C. 853.

Unlike his co-conspirators, many of whom pled guilty and entered into cooperation agreements, Knock exercised his Sixth Amendment right and took his case to trial. He challenged the jurisdiction of the United States to prosecute the conspiracy arguing a lack of nexus to the U.S. as well as the sufficiency of the evidence.

Upon the jury verdict, Knock paid a “trial penalty” for exercising that Sixth Amendment right which culminated in two terms of Life Without Parole (“LWOP”) plus 20 years for money laundering. *Exhibit 2*. Those sentences were driven by the US Sentencing Guidelines which were mandatory in November, 2000 when the late Judge Paul imposed them. *Id.*

### **Knock Has Exhausted All Administrative Remedies**

John has exhausted all of administrative remedies prior to filing the instant motion. In November, 2000 he was sentenced to double LWOP plus 20 years after trial. *See, Exhibit 2*. The Eleventh Circuit denied his direct appeal in 2003 affirming the District Court without opinion. *See, 71 Fed. Appx. 821 (Table)*. The United States Supreme Court denied certiorari in 2004. *See, 540 U.S. 1177(2004)*. Knock’s collateral *habeas corpus* petition was denied by the District Court in 2008. *See, 2008 WL 817103*. His request for a Certificate of Appealability was also denied. *2008 WL 2359901*. John Knock was the sole Petitioner denied in a 2012

group clemency bid submitted to President Obama by David C. Holland, Esq. and the late Michael Kennedy, Esq., *See, Exhibit 5*.

Now a geriatric inmate, John applied for Compassionate Release under First Step Act on October 2, 2019. *Exhibit 3*. The Warden failed to respond within the 30 day window allotted under the First Step Act which immediately conferred this Court's jurisdiction over this matter. Thereafter, the Assistant Warden provided a written denial letter on December 4, 2019, declining the request for Compassionate Release. *Exhibit 4*.

Now, in accordance with the provisions of the First Step Act, and having exhausted all administrative rights and remedies, John now seeks relief from this Court in the form of an immediate Reduction In Sentence and release from prison so he may live out his remaining days with his family from whom he has been separated for 24 years.

**This Court Has Jurisdiction To Resentence Under The First Step Act**

In 2018, President Trump signed into law the "First Step Act of 2018". *Sect. 603(b), Pub. Law 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018)*. Congress created this resentencing vehicle because the federal Bureau of Prisons was exceedingly conservative in granting Compassionate Relief requests from elderly and ill inmates. The Act provides a pathway for qualified inmates like John, who have served decades behind bars, to first seek Compassionate Release from the Warden.

Once denied, the inmate may seek direct relief for a reduction in sentence from the District Court. The trial judge who presided over Knock's case has passed. This Court, upon reviewing the extraordinary and compelling circumstances in John's case, may, in its discretion, grant this motion and resentence him to time served.

Under *18 U.S.C. 3582(c)(1)(A)* –“Modification of an Imposed Sentence”:

“the court, ... upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf ... may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

- (i) extraordinary and compelling reasons warrant such a reduction;

The factors set forth in *18 U.S.C. 3553(a)* set forth that:

“The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
  - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
  - (B) to afford adequate deterrence to criminal conduct;
  - (C) protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for—

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

...

(5) any pertinent policy statement—

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code ...; and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

### **John Knock Is Deserving Of Relief Under The First Step Act**

Knock has satisfied the threshold requirements for relief. He sought Compassionate Release on October 2, 2019. *Exhibit 3; Exhibits 3-1 through 3-19.* That request was denied on December 4, 2019, which was more than 30 days after

Knock filed his request. *See, Exhibit 4.* As such, the Warden's default in failing to timely respond within 30 days invoked the jurisdiction of this Court. Now, in accordance with *18 U.S.C. 3582(c)(1)(A)(i)*, he seeks relief requesting an immediate Reduction In Sentence based upon the "extraordinary and compelling" circumstances of his situation.

### **Knock's Arrest, Extradition, and Trial**

As stated above, Knock was indicted in the Northern District of Florida in 1994 and arrested in Paris, France in 1996. *Exhibits 1 and 2.* He was held in France until he was extradited to the United States in 1999 after an express extradition agreement was reached between the two countries limiting John's maximum sentencing exposure. *Exhibits 2; 3-14.* According to Jean Pierre Spitzer, Knock's French attorney:

"I obtained from the French State Council and from Mrs. Elizabeth Guigou, then Minister of Justice, that said extradition would only be agreed upon under the express, *sine qua non* condition that Mr. John Knock would not be sentenced to more than 20 years of imprisonment. Same effectively represented the maximum sentence Mr. John Knock could have received under the French penal code. It appears that, at the time, the French Minister of Justice had obtained explicit guarantees from the American authorities, that Mr. John Knock would not be imposed [sic] a sentence greater than 20 years of imprisonment. I was therefore extremely shocked when learning of the severity of the sentence – two lifetimes – and even more so when considering that the crimes he was accused of do not warrant, in our generation's eyes, such a harsh punishment; Indeed, Mr. John Knock had never committed any violent act."

*Exhibit 3-14.* [Emphasis Added].

By superseding indictment, Knock and numerous others were charged with participation in a non-violent European based marijuana distribution conspiracy which operated from 1982 through April 17, 1996, the date of his arrest. *Exhibit 1.* Knock was specifically charged and later found guilty after jury trial of (1) Conspiracy to distribute marijuana in violation of 21 U.S.C. 841(a)(1), 841(b)(1)(A)(vii) and 21 U.S.C. 846; (2) Conspiracy to import marijuana in violation of 21 U.S.C. 952 and 960(b)(1)(G) and 21 U.S.C. 693; (3) Conspiracy to transport funds in violation of 18 U.S.C. 1956(a)(2)(A), 18 U.S.C. 1956(h); and (4) Criminal forfeiture pursuant to 21 U.S.C. 853.

Those charges and draconian sentences prove that the U.S. Department of Justice entered into the extradition agreement in bad faith. Unfortunately, France is technically the aggrieved party, not Knock, so there is no legal recourse for the bad faith with which the Department of Justice entered into that agreement.

**Knock Received “Trial Penalty” For Challenging Government**

Unlike many of his co-conspirators who pled guilty and cooperated, John took his case to trial. He challenged the jurisdictional nexus of United States to the conspiracy as well as the sufficiency of the evidence. The jury convicted on all counts and he was sentenced in November, 2000 to two LWOP sentences plus 20 years which were mandated by the federal Sentencing Guidelines. *Exhibit 2.*

Upon information and belief, all co-conspirators who pled guilty in advance of trial, but did not cooperate, were sentenced to relatively short stints in jail. By comparison, Knock's draconian double LWOP sentences may have been a punitive "trial penalty" for challenging the Government and going to trial. *Exhibit 3-13, "The Trial Penalty: The Sixth Amendment Right To Trial on the Verge of Extinction and How To Save It"*.

Under the U.S. Sentencing Guidelines, a criminal defendant may receive a three point reduction in their overall score if they accept responsibility for their actions and timely plead guilty before the Government prepares for trial. *See, U.S.S.G. 3E1.1*. Those that don't take a timely plea may be assessed the inclusion of those three points in any Guideline score calculation. But, those three points alone would not have accounted for Knock's double LWOP sentences plus 20 years. It had to be a "trial penalty".

Judge Young, the former Chief Justice of the District of Massachusetts, described the "trial penalty" phenomenon stating:

"The many rights attendant to criminal trials demonstrate the central importance that such trials have in ensuring that no person is wrongfully deprived of her life, liberty, or property, yet as the Court has described, the Guidelines have dramatically reduced the use of criminal trials, in part by placing a heavy punitive price on those who exercise their right to a jury trial. Whether the Guidelines system merely burdens the right to a jury trial or in fact violates it, it is cause

for concern, particularly in light of the dramatic increase in the Department's investigative powers.”

*U.S. v. Green*, 346 F. Supp. 2d 259, 313 (D. Mass. 2004), vacated in part *sub nom. United States v. Yeje-Cabrera*, 430 F.3d 1 (1st Cir. 2005), and vacated and remanded *sub nom. United States v. Pacheco*, 434 F.3d 106 (1st Cir. 2006).

“Mandatory minimum life sentences are among the most inhumane in the federal system because, although occasionally justified, they are too often arbitrary, disproportionate, and cruel.” Gill, Molly M., “*Clemency For Lifers: The Only Road Out Is The Road Not Taken*”, Federal Sentencing Reporter, October 2010, Vol. 23, No. 1, pg. 21. Those punitive trial penalties are truly a slow and agonizing death for John Knock - especially since society’s views and federal sentencing practices regarding marijuana have changed dramatically since November, 2000.

The U.S. Sentencing Commission has become critical of imposing the undue severity of the former mandatory sentences. Today, the federal Sentencing Guidelines are advisory. *See, U.S. v. Booker*, 543 U.S. 220 (2005). The Commission now views mandatory life sentences to be “excessively severe”, they were not “narrowly tailored to apply only to those offenders who warrant such punishment” and such sentences were not “applied consistently”. *U.S. Sentencing Commission 2012 Datafile USSC GY 12*. Consequently, they are rarely handed

down in a Court's discretion particularly in non-violent marijuana only distribution conspiracies like that Knock was participated in.

On May 19, 2010, former U.S. Attorney General Holder, in a memorandum addressing sentencing disparities stated:

“Persons who commit similar crimes and have similar culpability should, to the extent possible, be treated similarly. Unwarranted disparities may result from disregard for this fundamental principle.”

He went on to state: “Indeed, equal justice depends on individualized justice, and smart law enforcement.”<sup>1</sup>

Clearly, Knock was not sentenced equally to his co-conspirators who pled guilty and avoided trial. To the extent that his double LWOP plus 20 years sentences can be viewed as ‘individualized’, they appear to be triggered by the ‘trial penalty’. Despite those gross sentencing disparities and disproportional punishments, no relief was afforded John Knock when he applied to President Obama for group clemency. *Exhibit 5*. In fact, he was the only member of the group that did not receive a Reduction In Sentence or commutation of sentence.

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<sup>1</sup>“Attorney General Holder Issues Memo On DOJ Charging and Sentencing Policy” [https://www.subjecttoinquiry.com/enforcement-and-prosecution-policy-and-trends/attorney\\_general\\_holder\\_issues\\_memo\\_on\\_doj\\_charging\\_and\\_sentencing\\_policy/](https://www.subjecttoinquiry.com/enforcement-and-prosecution-policy-and-trends/attorney_general_holder_issues_memo_on_doj_charging_and_sentencing_policy/)”.

Knock exhausted all of his administrative remedies prior to the passage of the First Step Act in 2018. His direct appeal to the 11<sup>th</sup> Circuit was lost, his post-conviction Habeas Corpus petition was denied, and his clemency application rejected by President Obama. No further options but death will free him from his cell unless this Court grants immediate relief under the First Step Act.

**Despite Defaulting, the Warden Should Have Granted Compassionate Release**

John filed a request on October 2, 2019 for Compassion Release pursuant to *18 U.S.C. 3582(c)(1)(A)(i)*. *Exhibit 3*. He compiled an extensive package to accompany that request which included family letters, certificates of completion of educational and vocational training courses earned while incarcerated, a “pre-release” certificate, a psychological evaluation in support of his quest for release, and comparative sentencing charts showing that modern day marijuana offenders receive significantly lesser sentences than what Judge Paul imposed on him. *See, Exhibits 3-1 through 3-19*.

On December 4, 2019, despite defaulting on the 30-day time period to submit a response under the First Step Act (thereby triggering the jurisdiction of this Court), the Acting Warden denied Knock’s request for Compassionate Release. *Exhibit 4*. That denial states:

“You are a 70-year-old man.... According to your medical review, you are a stable chronic care patient with a diagnosis of cataracts,

glaucoma, and hypothyroidism. ... At this time life expectancy cannot be determined as you do not have a terminal condition.”

“Therefore, you do not have a terminal medical diagnosis with a life expectancy of 18 months or less. You do not have a debilitated condition from which you will not recover and you are not completely disabled and unable to perform activities of daily living and are not totally confined to a bed. ... You are not experiencing physical or mental health that substantially diminishes your ability to function in a correction facility.” *Exhibit 4.*

In reality, John’s “chronic care” status includes not only the standard maladies of a man of his age, but the inadequacy of the prison health care system to effectively address his health care needs. He has chronic sinus complications stemming from a fractured zygomatic arch that has gone untreated for years, circulatory issues, and profound swelling of his ankle causing it to blow up to twice the size of the other. Further, his vision and dental issues continue to go without proper care and attention. *Exhibit 3-18.* Plain and simple, the prison healthcare system is not designed to care for geriatric inmates, especially “Lifers” like Knock who are fated to die behind bars.

So far, John has managed to outlive the U.S. Sentencing Commission’s life expectancy estimate of 64 years old for inmates living in general population. *See, Exhibit 3-6.* That is surely due in part to being physically active. He obtained certification for the instruction of various disciplines such as yoga and spin classes in order to stave off complications as his health begins to decline. *See, Exhibit 3-9.*

Genuine concern exists that in time, as a geriatric inmate, John's diminishing vision and hearing will make him vulnerable in the general population posing risks for his ongoing health and safety. Without the relief now afforded under the First Step Act, his only relief will come with death – a very sad reality.

**Extraordinary and Compelling Circumstances Exist  
To Grant Reduction In Sentence**

The First Step Act directs the Court to look to the array of factors taken into account by U.S. Sentencing Guideline 1B1.13 which constitute “extraordinary and compelling” circumstances warranting a reduction in sentence.<sup>2</sup> The Application Notes to that Guideline identify factors and scenarios that apply to John and should qualify him for relief pursuant to 1B1.13(B). He is: (i) over 65 years old, (ii) experiencing steady and serious deterioration in physical health because of the aging process, and (iii) has served at least 10 years or 75 percent of his term of imprisonment, whichever is less. *USSC 1B1.13, Application Note 1(B)*.

John should also qualify for a reduction under Application Note 1(D) to USSG 1B1.13 which states: “As determined by the Director of the Bureau of Prisons, there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons described in subdivisions (A) through (C).” Respectfully, due to the untimely default of the Assistant

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<sup>2</sup> <https://guidelines.ussc.gov/gl/§1B1.13>.

Warden in responding to Knock nearly 60 days after his request for Compassionate Relief, permits this Court to step into the shoes of the Director of the Bureau of Prisons to analyze the Application Note criteria. To the extent that the belated denial letter of the Assistant Warden has merit, it the Court should take note that the unbending orthodoxy and exceedingly exacting precision with which the Warden reviewed the Compassionate Release eligibility factors when assessing Knock's request is precisely why Congress created the First Step Act to provide an inmate with an additional avenue to relief and the District Court with the discretion and final word to release elderly non-violent first time offenders like John Knock.

Precedent does exist for this Court to find extraordinary and compelling relief based upon the criteria in the 1B1.13(B) Application Notes. In 2015, before passage of the First Step Act, both the United States Attorney's Office and the District Court for the Northern District of Georgia found that satisfaction of some of the factors listed in the Guideline and Application Notes met the extraordinary and compelling threshold to grant an immediate sentencing reduction of "time served" to Larry Duke. *Exhibit 3-8*. Knock is older than Duke was at the time his sentence reduction and their relative health was about the same. The granting of the sentence reduction motion in the Duke case should give this Court some assurance that it may do so here.

Were this Court to deny the motion, it is clear that the Warden will not grant Compassionate Release to John Knock unless and until he is unable to care for himself, decrepit, demented, and just weeks away from death. That is a truly cruel stance especially since modern sentencing trends impose sentences for marijuana offenses that are far less than the 20 years John has already etched into his cell walls. This Court can change his fate and grant humane relief based on John's extraordinary and compelling circumstances.

### **State and Federal Legislation Promotes Legalized Marijuana**

Much has changed since John Knock was twice condemned to die in jail. Society's views as well of those of Congress and the Department of Justice have drastically changed and become tolerant and permissive.

Since John Knock was sentenced in 2000:

- a. 33 states have passed some form of marijuana legalization whether for medical or adult use purposes;
- b. In 2009, Deputy Attorney General Ogden issued an advisory entitled: "*Memorandum for United States Attorneys On Investigations and Prosecutions In States Authorizing The Medical Use of Marijuana*" advising law enforcement to conserve resources and not prosecute medical patients duly authorized under state laws to use medical cannabis.  
<https://www.justice.gov/archives/opa/blog/memorandum-selected-united-state-attorneys-investigations-and-prosecutions-states>

- c. In 2013, Deputy Attorney General Cole issued a Memorandum that advised federal law enforcement that subject to eight federal enforcement priorities, medical dispensaries and patients compliant with their state regulatory scheme should be subject solely to state and local law enforcement action.  
<https://www.justice.gov/opa/pr/justice-department-announces-update-marijuana-enforcement-policy>
- d. In 2014, the Department of Treasury Financial Crimes Enforcement Network (FinCEN), recognizing the enforcement priorities of the Cole Memorandum, passed guidance for banks permitting them to accept deposits and cash from legal marijuana dispensaries.  
<https://www.fincen.gov/sites/default/files/shared/FIN-2014-G001.pdf>
- e. Congress has passed several spending appropriations amendments:
  - i. the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2015 (H.R. 4660) signed into law by President Obama on December 16, 2014;
  - ii. the Rohrbacher-Blumenauer Amendment to the 2016 Omnibus Spending Bill, Pub. L. 114-113, signed into law by President Obama on December 18, 2015;
  - iii. the 2018 Omnibus Spending Bill, Pub. L. 115-141 which was signed into law by President Trump on March 23, 2018, and extended again by President Trump to November 21, 2019; and
  - iv. the “Consolidated Appropriations Act, 2020” (H.R. 1158) signed into law by President Trump on December 20, 2019.

Each of those spending appropriations amendments were designed by Congress to handcuff federal law enforcement agencies from using federal funds to investigate and prosecute patients and facilities in legalized medical marijuana

states. The constitutionality of those spending appropriations restrictions was upheld by the Ninth Circuit in *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016). Effectively, today, Congress seeks to nullify the very supremacy of the federal Controlled Substances Act that it passed to make marijuana a Schedule I drug so that state-based marijuana programs are moved further from the reach of federal law.

For a matter of perspective on how far Society has moved since Knock was sentenced in November, 2000, as of March 11, 2020, 1,444 legislative bills related to the legalization and regulation of marijuana were pending before Congress and state legislatures. <https://www.marijuanamoment.net/two-cannabis-bills-scheduled-for-congressional-votes-this-week-newsletter-march-11-2020/>

Pending before Congress today are several bills designed to further protect the medical and adult use cannabis industries as well as the banking industry engaged in the flourishing cannabis space. They include:

- a. the Strengthening the Tenth Amendment Through Entrusting States Act (STATES ACT, H.R.2093 of 2019);
- b. the Marijuana Opportunity Reinvestment and Expungement Act (MORE Act of 2019 – H.R. 3884)
- c. the Secure and Fair Enforcement Act (SAFE ACT of 2019 – H.R. 1468)

In light of these modern prevailing Congressional trends towards the promotion of cannabis and commercialization of it, all indications seem to lead to the conclusion that but for the “trial penalty” that Knock was assessed, were he sentenced under today’s sentencing trends, he should have been released years ago. *See, Exhibits 3-16 and 3-17, USSC Charts on Mean Sentences.*

**Analysis Of Reduction Request Under 18 U.S.C. 3553(a) Factors**

The First Step Act requires the Court to consider the sentencing factors set forth in 18 U.S.C. 3553 when ruling on this motion.

**Sufficiency of Sentence And Nature And Characteristics Of Offense**

Assessing the strength of Knock’s application under the 18 U.S.C. 3553(a) factors, the Court is to impose a sentence that is “sufficient but not greater than necessary to achieve the sentencing purposes” set forth in the statute.

When it comes to sufficiency of the sentence, the Court must take into account not only the sentencing disparity between Knock and his co-conspirators who took pleas, but also the radically different permissive attitude of Society and the Government with regard to cannabis as set forth above. Life sentences are seldom handed down. *See, Exhibits 3-16 and 3-17.* Further, the sufficiency of John’s sentence must be measured against that of other alleged marijuana

“Kingpins”, unrelated to the conspiracy in which Knock was charged, who received far less punitive sentences upon entering a guilty plea:

<b>Defendant</b>	<b>Gov’t and/or Media Description of Role In Conspiracy</b>	<b>Sentence</b>
Robert Colflesh	7/27/88 UPI: “World’s biggest drug Kingpin”	10 yrs Served 4 yrs
Samuel Colflesh	7/27/88 UPI: “World’s Biggest drug Kingpin” along with brother, Robert	10 yrs Served 4 yrs
Brian Daniels	US Atty: Largest Seizure of Marijuana in World	25 yrs Served 9 yrs
Ciro Mancuso	US Atty: Largest Drug Conspiracy In History	9 yrs Served 5 yrs
Bruce Perlowin	11/85 Berkeley Monthly US Atty: Largest Marijuana Importer In History	Served 8 yrs
Frank Falco	3/28/2019 Seattle Times US Atty: Largest Hashish Smuggling Unraveled	10 yrs sentence
William Uhler	US Atty: World Biggest Marijuana Trafficker	24 yrs Served 9 yrs
Arthur Torson	1998 - US Atty: One of the biggest marijuana smugglers on the planet	Indicted 1998 Released 2006
Sidney Marvin Lewis	9/3/89 UPI: US Atty: Largest Hashish seizure in the North West.	Fugitive for 13 years Served 4 yrs
Howard Marks	10/23/90 PBS: US Atty: Largest smuggler of marijuana in the World.	25 yrs Served 8 yrs
Michael Medjuch	1991 - US Atty: Largest shipment ever seized by US Agents	24 yrs Served 13 yrs
Michael Cleave Forwell	1996 - US Atty: World’s Leading Kingpin	15 yrs Served 3 yrs
William Shaffer	1992 arrest – US Atty: Largest wholesaler of marijuana from South East Asia	No known disposition

Chris Shaffer	1992 arrest – US Atty: Biggest marijuana importation on the West Coast	No known disposition
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John Knock was never described as “world’s largest” anything in the conspiracy he was found guilty of joining. Yet, each of his sentences dwarf each of those handed down to those described as such in the chart above, all of whom are free men today having been released after short bits in jail.

In light of those sentences, John’s continuing LWOP status as a non-violent marijuana only inmate (very few are known to still exist), has been the subject of many media reports such as CBS, Fox News, International Business Times, US News and World Report, Alternet, Huffington Post, Salon, American Enterprise Institute, Mother Jones, Mintpress News and Aljazeera America. He was featured in the ACLU Report “Life Without Parole – A Living Death”.

The Court should take notice of the charts produced from statistics compiled by the US Sentencing Commission graphically display the “*Mean Sentencing For Comparative Sentencing Chart Criminal History Category I*”. *Exhibits 3-16*. In that chart, the mean sentence for different crimes are represented by vertical bars: Murder is 206 months, Kidnapping is 136 months, Drug Trafficking is 51 months, Money Laundering is 41 months, Racketeering/Extortion is 67 months, Child Pornography is 118 months. *Exhibit 3-16*. Comparing Knock’s double LWOP

sentences for non-violent first time offenses literally towers over the length of those average sentences imposed for serious and often violent crimes.

In the chart annexed hereto as *Exhibit 3-17*, sentencing data is derived from statistics gathered by the United States Sentencing Commission Datafile ([www.ussc.gov/QuickFacts](http://www.ussc.gov/QuickFacts)) regarding the average number of months a defendant was sentenced to by drug type:

- a. Powder cocaine – 100 months
- b. Crack cocaine – 100 months
- c. Heroin – Less than 100 months
- d. **Marijuana – Less than 50 months**
- e. Meth – Less than 100 months

Going by those figures, John Knock, since his arrest in 1996, has been jailed more than **5x** the amount of the average sentence now imposed for a first-time non-violent marijuana offender – with no expiry of his sentences other than his death. Respectfully, that is unconscionable and constitutes extraordinary and compelling reason to immediately reduce John’s sentences to time served.

Under 3553(a)(2)(A) the district court is to impose that sentence which reflects the seriousness of the offense, promote respect for the law, and provide just punishment. Respectfully, imposing double LWOP sentences on Knock grossly exceeded the sentences imposed on those that the Government identified as “Marijuana Kingpins” in the chart above. Continuing the mandatory life sentences

don't promote a respect for the law, and in fact, the United States Supreme Court made the Guidelines advisory only 5 years after Knock was sentenced by Judge Paul. *See, U.S. v. Booker*, 543 U.S. 220 (2005).

Without question those LWOP sentences have instilled in Knock a respect for the law and a fear of any future contact with the criminal justice system. That fear is enough as according to the U.S. Sentencing Commission statistics, inmates released at the age of 65 are a very low risk for recidivism. *See, Exhibit 3-19, Rearrest Rates For Recidivism Study Offenders By Age of Release*. John is already 72 and only wishes to spend out his days working and spending time with his family from whom he has been separated for 24 years.

John is a non-violent first time offender and an exemplary prisoner, inmate educator, and community leader in each facility he was housed. He has not been involved in any disciplinary or other infractions since he was locked up 24 years ago. *See, Exhibit 3-10, Bureau of Prisons Psychology Report; Exhibit 3-9, Knock Curriculum Vitae*. As such, he satisfies the inquiry under 3553(a)(C).

If released, John will return home to his former wife, Naomi Phillips, and son, Aaron. He will be surrounded by family including his indefatigable sister, Beth Curtis, who has been the champion of John and so many other non-violent

marijuana lifers. *See, Exhibits 3-1, Aaron Knock Letter, 3-2, Beth Curtis Letter, and 3-3, Naomi Phillips Letter.*

With regard to the factors listed in 3553(2)(D), John does not require any specialized education or training to prepare him for a life outside the prison. In fact, he has completed more than 180 educational and vocational classes obtaining numerous certificates of completion which are chronicled in his prison records. *See, Exhibit 3-9.* In all John has completed over 180 educational and vocations courses while in prison. *Id.* Additionally, John received a Certificate of Completion for “Pre-Release” which he earned while at USP Allenwood. *Exhibit 3-11.* Further, John also has a job waiting for him with the Philadelphia Historical Restoration Association as soon as he is released. *See, Exhibit 3-12.*

If released, he will also continue to receive tremendous emotional support from numerous advocacy groups including Families Against Mandatory Minimums (FAMM), National Organization for Reform of Marijuana Laws (NORML), Clemency Report, November Coalition, Can-Do Clemency, C Koch Institute, The Buried Alive Project, Cut 50, Justice Roundtable, and Civilized and others. With such strong ties and community support, John Knock will pose no threat or danger to the community upon his release.

With regard to 3553(a)(3) and (4), as evidenced by the sentencing charts in *Exhibits 3-16 and 3-17*, the types of sentences available to the Court, and the prevailing ranges imposed today are 50 months, or close to **5x less** than what John has already served. Congress passed the First Step Act for cases like Knock's so that this Court could provide humane relief after all other administrative rights and remedies have been exhausted. Resentencing John to time served is in line with Congressional intent under the Act and 18 U.S.C. 3553(a).

In accordance with 3553(a)(5), there are policy statements delegated by Congress pursuant to 28 U.S.C. 994(1) to the U.S. Sentencing Commission to devise the Compassionate Release/Reduction In Sentence procedures and factors under U.S.S.G. 1B1.13 and 18 U.S.C. 3582(c)(1)(A)(i). As a matter of law and policy, due to the inflexibility of the Bureau of Prisons to grant Compassionate Release requests, the First Step Act was passed to give a qualified inmate the right by means of a "defense" motion to seek recourse in the Court after exhaustion of all other rights and remedies. John Knock now does so in this action.

With regard to 3553(a)(6), only an immediate Reduction In Sentence can mitigate the disparity in sentences that have been handed down in marijuana cases since John was sentenced in November, 2000. As of the end of February, 2020, he will have served 232 months (not including the 54 months he was held pending extradition, during trial, and awaiting sentence), a period 5x longer than the mean

sentences handed down today for non-violent marijuana only first-time offenders.  
*Exhibits 3-16 and 3-17.*

Last, there were no victims in this non-violent marijuana only conspiracy and as such that factor need not be considered under 18 U.S.C. 3553(a)(7)

### **Conclusion**

Nearly  $\frac{3}{4}$  of the United States have legalized marijuana in some form since John Knock was hit with the “trial penalty” and twice sentenced to die in prison. Billions of dollars are legally made in the industry and the states and Congress have taken legislative measures to ensure the continued growth of the cannabis industry. Sentencing trends have evolved in that time to devise penalties that more appropriately fit the crime. The First Step Act was created to rectify the harsh consequences of mandatory life sentences. This Court is John Knock’s last and only remaining hope to be returned to his family and freed from draconian punishments of a bygone era.

Dated: New York, New York  
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