UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Robert S. Stewart, Jr.	)	
	)	
(Petitioner)	)	
	)	**Case No. 1:21CR-00005**
v.	)	
	)	
United States of America	)	
	)	
(Respondent)	)	

MOTION TO TERMINATE SUPERVISED RELEASE AND SUPPORTING MEMORANDUM

Mr. Robert S. Stewart, Jr. (Petitioner, herein), through PRO SE MOTION, respectfully requests that this Court terminate his supervised release pursuant to Rule 32.1(b) of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3583(e). In support of this Motion, The Petitioner demonstrates successful re-entry into his community, society and this Honorable Court:

1. The statute governing early termination of supervised release, 18 U.S.C. § 3564(c)[1], 3583(e)[2], provides that the court may terminate a term of supervised release "and discharge the defendant released at any time after the expiration of one year of supervised release, ... if it is satisfied that such action is warranted by the conduct of the defendant released and in the interest of justice."

2. in July 2022, The Petitioner began a three-year term of supervised release under the supervision of the United States District Court for the Northern District of Alabama, after having served a 21 month custodial sentence within the Federal Bureau of Prisons. In March 2023, the Petitioner sought to be transferred back to the Eastern District of Virginia's U.S. Probation Office due to his employment and be closer to his son.

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[1] UNDER 18 U.S.C. §§ 3564(c) and 3583(e) (1), the court may terminate terms of probation in misdemeanor cases at any time and terms of supervised release or probation in felony cases after the expiration of one year of supervision, if satisfied that such action is warranted by the conduct of an offender and is in the interest of justice. As such, early termination is a practice that holds promise as a positive incentive for persons under supervision and as a measure to contain costs in the judiciary without compromising the mission of public safety https://www.uscourts.gov/sites/default/files/77_2_2_0.pdf

[2] https://www.law.cornell.edu/uscode/text/18/3583

3. Since July 2022, The Petitioner has fulfilled all the conditions of his supervised release. He has a job as a Functional Analyst with a Federal Contracting Firm (Synergy, BIS of Reston, Va.) and holds a Public Trust Security Clearance. He also has been accepted into Law School and plans to pursue his Law Degree abroad within the United Kingdom beginning in September 2023. The Petitioner has both a Checking and Savings account and has managed to provide for him and his son throughout his incarceration and supervised release without qualification. Additionally, The Petitioner has been in mental health therapy through the Veteran's Administration and has satisfied all personal and legal pecuniary obligations per his conditions of supervised release. Lastly, The Petitioner has successfully completed his monthly Supervised release reports and has no incidents or violations while being on Supervised release.

4. The Petitioner, has contacted his supervising U.S. Probation Officer, Ms. Suleiman and advised her of the instant filing of this motion. Pursuant to § 32.1, compliance with his terms of supervised release and discussion with Ms. Suleiman, he moves this Honorable Court to terminate the imposed supervised release. Mr. Stewart has served Ms. Suleiman with a courtesy copy of the motion by United States Certified Mail.

Under **§ 3564(c), 3583(e)** – the Court must consider the petitioner's pleading with respect to the best interest of the Public. In weighing this motion – the Court should consider: (a) the Petitioner's current case at bar, (b) the Petitioner's lack of Criminal History, (c) the Petitioner's conduct while under Supervised Release, (d) the overall conduct of the Petitioner as it pertains to the likelihood of re-offending.

Here, The Petitioner was originally sentenced to a 21-month custodial sentence. The Petitioner was transferred to Supervised release on 22 July 2023 as a result of First Step Act (FSA) earned time credits (See Exhibit 'D' – *In re* **1:22-cv-294-MHH-JHE Final Order**) and having a record that was devoid of any violation(s) of Bureau of Prison policy, local, state and Federal law(s). As a result, The Petitioner's timed served was roughly 11 months of his original sentencing order. Since release, he has held a position of Public Trust, as an Analyst with a Federal Contracting Firm (See exhibit 'A' – Synergy BIS, LLC – PayStub). In addition, to maintaining employment and earning $120,000.00 per annum, The Petitioner successfully holds a public trust clearance. The Petitioner seeks termination of the supervised release, based on his adherence to all conditions of Supervised release which is consistent with § 32.1; while it Is not required for the Court to Grant early termination of supervised release, it must consider the aforementioned factors against the underlying relevant conduct of the petitioner against the overall safety of the General public. The petitioner proffers that his original conviction was a "Fraud" case and of a non-violent nature; at time of the filing of this petition – all fines, penalties and restitution has been paid. This criminal offense was isolated in nature and his criminal history is devoid of a pattern of criminal activity that would lead the Court to believe he is a threat to society or the public.

On 23 March 2023 – the petitioner was given a tentative job offer that requires a security clearance upgrade (See Exhibit 'B' – Contingent Job Offer.) The petitioner seeks to terminate supervised release as he currently is in the security clearance process for a clearance upgrade and his current status of being under supervised release is a potential "Disqualifying" event that will harm his ability to be granted additional eligibility.

¶ Adjudicated Guideline 31 – Guideline 'J' – Criminal Conduct

[Conditions that could raise a security concern and may be disqualifying include:
(c) individual is currently on parole or probation;
(d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program[3]]

Additionally, the petitioner's conduct throughout the process, both pre-trial, sentencing and post-conviction has been nothing but exemplary. So much so that the BOP permitted The Petitioner to be released well in advance of his statutory date. Since release, The Petitioner has enrolled in Law School (See Exhibit 'C' – Law School Acceptance letter) and plans to fulfill his purpose as a defense attorney upon degree conferral. Lastly, with respect to his morale and legal obligation(s) The Petitioner remitted child support to his minor son both before, while incarcerated, and post sentencing at the same level as prior to this case. It is important to not, that The Petitioner is not listed as the paternal father on the child's birth certificate and did not have a legal obligation to fulfill duty. The Petitioner, while incarcerated worked multiple jobs to earn the $800.00 per month to send to his son and did so without qualification.

It is well settled that those who are sentenced by a Court of competent jurisdiction are legally bound by the sentence imposed and once an order is issued is final, "Final judgment is the last decision from a court that resolves all issues in dispute and settles the parties' rights with respect to those issues. A final judgment leaves nothing to be decided except decisions on how to enforce the judgment, whether to award costs, and whether to file an appeal. Only once a final judgment has been made can a party typically file an appeal. A final judgment can exist even if there is an outstanding motion for a new trial.[4]"

However, under Federal Rule of Crim. Procedure 32.1(b) The Court has the authority to exercise its discretion in granting petitions of relief from supervised release when it, "Serves the public's interest" and is seen as an "incentive" for the petitioner to remain in compliance. Under the motion at bar it is clear that The Petitioner, has not only met the terms of his supervised release successfully, but has went above and beyond what is normally asked of an ex-felon. The Petitioner has proven that He meets the criteria for early termination of supervised release based on his good conduct under 18 U.S.C. § 3564(c), 3583(e).

[3] *Security Clearance Executive Agent Directive (SEAD) 4 at 20*
[4] https://www.law.cornell.edu/wex/final_judgment

WHEREFORE, it is respectfully requested that, in the interests of justice, the Honorable Court **GRANT** The Petitioner's motion for early termination of his supervised release pursuant to 18 U.S.C. § 3564(c), 3583(e), and Rule 32.1(b)

Respectfully submitted,

ROBERT S. STEWART, JR.
PRO SE PETITIONER 23 July 2023

Enclosures
(As Stated)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion To Terminate Supervised Release And Supporting Memorandum has been served upon both the U.S. Department of Justice located at **2100 Jamieson Ave Alexandria, VA 22314** the United States Probation Office (Eastern District of Virginia) Located at **401 Courthouse Square, Alexandria, VA 22314,** this 23rd Day of July, 2023.

Sincerely,

ROBERT S. STEWART, JR.
PRO SE PETITIONER

23 July 2023