

# Postconviction Law In 2026: A Recalibration, Not A Revolution

By **Alan Ellis, Ian Gold and Deborah Blum** (January 22, 2026)

Federal postconviction practice entered 2026 with a sense of renewed movement.

After several years in which doctrinal change occurred largely at the margins, 2025 marked a return by the U.S. Supreme Court to questions that sit at the core of postconviction litigation: the scope of sentence-reduction authority under Title 18 of the U.S. Code, Section 3582(c); the procedural boundaries of collateral review under Title 28 of the U.S. Code, Section 2255; and the increasingly uneasy relationship between the two.

We have seen these issues surface repeatedly in the lower courts, often producing circuit splits or uneasy compromises. In late 2025, the Supreme Court took up several cases that reflect this pressure.

The resulting decisions — most of which are expected in 2026 — are unlikely to transform postconviction law wholesale. They are, however, likely to clarify boundaries that matter enormously to practitioners: what arguments fit where, how much discretion district courts truly have, and how far equitable sentencing considerations may travel once a conviction is final.

This article surveys what mattered most in 2025 and what federal postconviction practitioners should be watching closely in the year ahead.

## **Sentence Reduction at the Supreme Court: Section 3582(c) at a Crossroads**

Much of the postconviction energy in 2025 centered on sentence reduction litigation. Since the First Step Act, courts have been forced to grapple with a statute that confers discretion while offering only limited textual guidance.

The U.S. Sentencing Commission's 2023 amendments expanded the recognized grounds for relief, but they also sharpened questions about how Section 3582(c) relates to other postconviction mechanisms.<sup>[1]</sup>

The Supreme Court's decision to hear multiple sentence reduction cases during the 2025 term — most notably, *Rutherford v. U.S.*<sup>[2]</sup> and *Fernandez v. U.S.*,<sup>[3]</sup> both argued in November 2025 — reflects that uncertainty. In those cases, the court was asked to consider whether sentencing disparities created by nonretroactive changes in law may constitute "extraordinary and compelling reasons," and whether arguments that resemble sentencing errors must be confined to Section 2255, rather than entertained under Section 3582(c).

At oral argument, the justices repeatedly returned to the same concern: whether compassionate release has begun to function as a de facto substitute for collateral review.



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We have seen district courts increasingly asked to consider nonretroactive statutory changes, evolving understandings of culpability, and sentencing outcomes that would likely be different if imposed today.

The government, for its part, urged a narrower conception of Section 3582(c), warning that an expansive approach risks eroding the finality principles embedded in Section 2255 and the Antiterrorism and Effective Death Penalty Act, or AEDPA.

The court's questioning suggested no appetite for collapsing those doctrines entirely. Several justices expressed concern about administrability and line-drawing, particularly if district courts are permitted to revisit issues that resemble legal errors rather than changed circumstances. At the same time, the justices appeared uncomfortable with an interpretation of Section 3582(c) that would render much of the Sentencing Commission's recent work functionally irrelevant.

For practitioners, the most important takeaway is not which side prevailed at argument, but what the court appears poised to do: Articulate a clearer boundary between sentence-modification discretion and collateral attack.

A ruling that preserves meaningful district court discretion while emphasizing procedural limits would be consistent with the court's recent sentencing jurisprudence. That outcome would maintain Section 3582(c) as a distinct remedy — powerful, but not unlimited.

### **Section 2255 in 2025: Quiet but Significant Doctrinal Movement**

While sentence reduction litigation drew the most attention in 2025, Section 2255 jurisprudence also continued to evolve in important, if less visible, ways.

In *Bowe v. U.S.*, decided on Jan. 9, 2026, the Supreme Court addressed a recurring question about the application of AEDPA's successive petition limits to federal prisoners.[4] The court's decision clarified that Section 2255 is not simply Section 2254 by another name. Rather than importing state habeas doctrines wholesale, the court emphasized the distinct statutory structure governing federal collateral review.

The ruling did not dismantle AEDPA's framework, nor did it relax finality as a core principle. But it did reinforce that procedural restrictions on federal prisoners must be grounded in the text Congress enacted, not in assumptions drawn from the state habeas context.

We have seen lower courts struggle for years to reconcile AEDPA's emphasis on finality with the reality that federal sentencing law has changed dramatically over the last 15 years. Nonretroactive statutory amendments, guideline revisions and constitutional decisions have left many defendants serving sentences that no longer reflect contemporary sentencing norms.

*Bowe* suggests that some procedural shortcuts — particularly those barring consideration of previously raised claims without close statutory analysis — may be on shakier footing than previously assumed.

For practitioners, the lesson is not that Section 2255 has become more forgiving. Relief remains difficult to obtain, and procedural defaults still loom large. But careful claim framing matters more than ever, and arguments that were once dismissed reflexively may now warrant closer attention.

## **The Section 2255-Section 3582 Boundary Problem**

Perhaps the most consequential issue for 2026 is not Section 2255 or Section 3582(c) in isolation, but the space between them — a tension explicitly acknowledged during oral argument in Rutherford and Fernandez. We have seen an increasing number of cases in which defendants seek sentence reductions based on arguments that resemble traditional collateral claims: sentencing errors, changes in law or evolving understandings of culpability.

Courts have responded unevenly. Some have taken a functional approach, asking whether the asserted basis for relief fits within the purposes of compassionate release. Others have adopted a categorical view, rejecting any argument that could have been raised — or could still be raised — under Section 2255.

The Supreme Court's recent engagement suggests discomfort with both extremes. On the one hand, there is skepticism toward using Section 3582(c) as an end-run around procedural barriers. On the other, there is recognition that rigid compartmentalization fails to account for how sentencing law now develops. Modern sentencing is dynamic; collateral review remains static by design.

We expect 2026 to bring greater clarity, even if not perfect uniformity. The most likely outcome is a framework that preserves a meaningful role for compassionate release while reinforcing that it is not a substitute for collateral review. Practitioners should be prepared to articulate why a particular claim belongs in one procedural vehicle rather than the other — and why that distinction matters.

## **Implementation Will Matter as Much as Doctrine**

Whatever the Supreme Court decides, the real work will occur in the lower courts. We have seen repeatedly that postconviction doctrine takes shape through implementation rather than headline rulings.

District courts will need to interpret new guidance against the backdrop of existing circuit precedent. Circuit courts, in turn, will confront questions about standard of review, preservation and the continued vitality of prior decisions. Disagreement is inevitable, and additional certiorari petitions are likely.

This dynamic is familiar from earlier sentencing decisions, including the Supreme Court's June 2025 decision in Hewitt v. U.S., which addressed the application of First Step Act reforms to certain Section 924(c) sentences, but left substantial room for downstream litigation.<sup>[5]</sup>

Likewise, although Rivers v. Guerrero — decided the same month — arose in the state habeas context, the decision's insistence on careful statutory parsing has influenced how courts think about successive petitions more broadly.<sup>[6]</sup>

For practitioners, this underscores the importance of record-building at sentencing and on direct appeal. Arguments that appear marginal today may become central tomorrow if the legal landscape shifts. Sentencing memoranda, objections and mitigation records increasingly serve double duty, shaping both direct review and future postconviction options.

## What Practitioners Should Watch in 2026

Against this backdrop, several developments merit close attention:

- Supreme Court decisions clarifying the scope of Section 3582(c) and its relationship to Section 2255;
- How circuit courts apply those decisions, particularly where existing precedent points in a different direction;
- Continued litigation over successive Section 2255 motions and the limits of AEDPA in the federal prisoner context;
- The Sentencing Commission's response, if any, to Supreme Court guidance on sentence modification; and
- District court practice, which will ultimately determine how accessible postconviction remedies are in real cases.

## Conclusion

We have seen federal postconviction law enter a period of recalibration rather than revolution. The Supreme Court appears focused on restoring coherence to a system in which sentencing modification, collateral review and finality increasingly overlap.

For practitioners, success in 2026 will depend less on doctrinal novelty than on strategic clarity: understanding which tools are available, when to deploy them and how to preserve issues for a legal landscape that continues to evolve.

In that sense, postconviction practice has become not only retrospective, but also forward-looking — demanding an eye toward where the law is headed, not just where it has been.

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[1] U.S. Sentencing Commission, Amendments to the Sentencing Guidelines (effective Nov. 1, 2023), expanding recognized grounds for compassionate release, including certain nonretroactive changes in law.

[2] Rutherford v. United States, No. \_\_\_\_ (U.S. argued Nov. 2025), addressing whether sentencing disparities created by nonretroactive changes in law may constitute "extraordinary and compelling reasons" under 18 U.S.C. Section 3582(c).

[3] Fernandez v. United States, No. \_\_\_\_ (U.S. argued Nov. 2025), considering the boundary between sentence modification under Section 3582(c) and collateral attack under 28 U.S.C. Section 2255.

[4] Bowe v. United States, \_\_\_\_ U.S. \_\_\_\_ (2026), clarifying the application of AEDPA's successive-petition limits to federal prisoners proceeding under Section 2255.

[5] Hewitt v. United States, 602 U.S. \_\_\_\_ (2024), addressing the scope of First Step Act relief for certain Section 924(c) sentences and generating downstream Section 2255 and Section 3582 litigation.

[6] Rivers v. Guerrero, 599 U.S. \_\_\_\_ (2024), interpreting the meaning of "second or successive" petitions under AEDPA and influencing analogous federal post-conviction analysis.