

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
)	NO. 2:08-cr-00013
v.)	
)	JUDGE CAMPBELL
)	
JOSEPH WOLCOTT)	

ORDER

Pending before the Court are Defendant’s Motion for Reduction in Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A) as Amended by the First Step Act of 2018 (Doc. No. 1033), and the Government’s Response (Doc. No. 1039). Through the Motion, Defendant requests the Court grant him compassionate release from incarceration.

Before passage of the First Step Act of 2018, a court could consider a request for the compassionate release of an inmate from incarceration only when the request was made by the Director of the Bureau of Prisons. *See, e.g., United States v. Lake*, 2019 WL 4143293 (E.D. Ky. Aug. 30, 2019); *United States v. Davis*, 2019 WL 6898676 (W.D. Tenn. Dec. 18, 2019). Section 603 of the Act, however, modified 18 U.S.C. § 3582(c)(1)(A) to allow an inmate to directly request compassionate release after he or she has exhausted administrative remedies. Section 3582(c)(1)(A) provides:

(c) Modification of an imposed term of imprisonment.—The court may not modify a term of imprisonment once it has been imposed except that –

(1) in any case –

(A) the court, upon motion of the Director of the Bureau of Prisons, or 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 or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, 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)¹ to the extent that they are

¹ The factors set forth in Section 3553(a) are as follows:

- (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) to 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, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated

applicable, if it finds that—

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

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission . . .

Defendant contends “extraordinary and compelling reasons” warrant his release in this case. The United States Sentencing Commission has identified certain “extraordinary and compelling reasons” that may justify compassionate release:

(A) Medical Condition of the Defendant.—

(i) The defendant is suffering from a terminal illness (i.e., a serious and advanced illness with an end of life trajectory). A specific prognosis of life expectancy (i.e., a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.

(ii) The defendant is—

by the Sentencing Commission into amendments issued under section 994(p) of title 28); 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.

- (I) suffering from a serious physical or medical condition,
- (II) suffering from a serious functional or cognitive impairment, or
- (III) experiencing deteriorating physical or mental health because of the aging process,

that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

(B) Age of the Defendant.--The defendant (i) is at least 65 years old; (ii) is experiencing a serious deterioration in physical or mental health because of the aging process; and (iii) has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less.

(C) Family Circumstances.—

- (i) The death or incapacitation of the caregiver of the defendant's minor child or minor children.
- (ii) The incapacitation of the defendant's spouse or registered partner when the defendant would be the only available caregiver for the spouse or registered partner.

(D) Other Reasons.—As determined by the Director of the Bureau of Prisons,² 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).

U.S.S.G. § 1B1.13, n. 1.

After a jury trial conducted by now-retired Judge William J. Haynes, Jr., Defendant was convicted of drug trafficking, illegal gambling, money laundering, and participating in an animal fighting venture. (Doc. No. 712). At the subsequent sentencing hearing, on May 20, 2011, Judge Haynes imposed a total sentence of 276 months of imprisonment and 10 years of supervised release. (Doc. No. 814). On appeal, the Sixth Circuit affirmed the convictions and sentence. (Doc.

² This policy statement has not been amended since the passage of the First Step Act, but courts have consulted the provision for guidance in determining whether “extraordinary and compelling reasons” justify a sentence reduction. *See Lake*, 2019 WL 4143293, at *2 n. 1. The Court finds the provision instructive.

No. 955).

According to Defendant, he is 65 years old and is scheduled to be released on June 27, 2029. Defendant contends compassionate release is appropriate here because he suffers from dementia, a congenital heart defect and other cardiac diagnoses, chronic back pain, diabetes, kidney disease, and other medical conditions. Defendant indicates his medical conditions are chronic and require treatment from outside medical providers because the Bureau of Prisons cannot provide needed treatment. Defendant argues these conditions substantially diminish his ability to provide self-care within a correctional facility. Defendant also points out the length of his sentence was largely driven by a statutory mandatory minimum that would not apply if her were sentenced today. If released, Defendant indicates he plans to live with his wife on their farm in Crossville, Tennessee.

The Government states that Defendant has satisfied his procedural burden under the statute, and defers to the judgment of the Court as to whether to grant Defendant's request. Should the Court grant the motion, the Government requests the Court order Defendant be released from the custody of the Bureau of Prisons as soon as his medical condition permits, the release plan is implemented, and travel arrangements can be made. The Government further requests that upon release, Defendant begin serving his 10-year period of supervised release.

Defendant has not requested a hearing in this matter, and the Court finds a hearing unnecessary. Based on the parties' filings and the authority discussed above, the Court concludes Defendant's chronic medical conditions, age, the length of time he has been incarcerated, and the minimal risk of danger he poses to the public constitute "extraordinary and compelling reasons" to reduce his sentence to time served. Accordingly, Defendant's Motion is **GRANTED**. Defendant shall be released from custody of the Bureau of Prisons as soon as practicable, and upon release,

shall begin service of the imposed term of supervised release.

It is so **ORDERED**.

A handwritten signature in black ink, reading "William L. Campbell, Jr.", written in a cursive style. The signature is positioned above a horizontal line.

WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE