

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 3:01-cr-151-MOC-DCK-5
)	
LAMAR REDFERN,)	
)	
Defendant.)	

**MOTION FOR RECONSIDERATION OF
ORDER DENYING SENTENCE REDUCTION (DKT. NO. 249)**

Lamar Redfern, through Counsel, respectfully asks the Court to reconsider its December 9, 2021 Order denying Redfern's motion for a sentence reduction, Dkt. No. 249. The Court denied Redfern's motion because of the nature and circumstances of his offense, the need to protect the public, the need for deterrence, and concerns about Redfern's behavior in prison. Order at 5–6. Because we believe these concerns are addressed by newly admitted records and a supplemental memorandum not referenced in the Court's Order, we ask the Court to reconsider its denial and grant Redfern's motion for a sentence reduction.

When the Court denied Redfern's motion it did not have the benefit of recently filed prison records that provide additional information and context to Redfern's most recent disciplinary infraction. On December 3, 2021, Redfern filed an unopposed motion to supplement the record with documents obtained from the Bureau of Prisons through a FOIA request. Dkt. No. 248. Given that concerns about Redfern's behavior in prison were central to the Court's denial, these supplemental records could materially influence the Court's analysis. But these records were not considered in the Court's decision because Redfern's motion to supplement was not granted until today, four days after the Court denied his motion for a sentence reduction.

Records obtained through the FOIA request show that Redfern's most recent infraction was the result of a strict-liability approach to prison discipline, not any wrongdoing that should weigh against his release. On August 23, 2018, a prison officer searched Redfern and found in his shorts a small, rectangular piece of paper that tested positive for amphetamines. Dkt. No. 248-1 at 3. Redfern asserted that he got the shorts from another inmate and did not know there was anything in the pockets. *Id.* Although denials from people accused of wrongdoing may be commonplace, Redfern's explanation is credible because the inmate Redfern named appeared at the disciplinary hearing and offered corroborating testimony against his own interest: "I sold him a pair of shorts and forgot that I left it in the pockets." *Id.* For purposes of the hearing, it did not matter who the drugs belonged to. The hearing officer concluded that "[w]hen [Redfern] purchased these pants from an inmate and failed to check the contents of the pockets, [Redfern] became responsible for any contraband found within them." *Id.* But Redfern's failure to discover a tiny piece of paper in the pocket of shorts he purchased from a fellow inmate should have no bearing on this Court's evaluation of his risk to the public.

Redfern has nearly ten years of exemplary performance in prison once this strict-liability infraction is properly discounted. His next most recent infraction, which occurred in December 2017, involved the minor offense of Interfering with Taking Count. Dkt. No. 243-13 at 2. Before that, his most recent infraction occurred in February 2012. *Id.* Although Redfern had twenty-five infractions between 2004 and February 2012, we believe the facts show that these earlier infractions reflect the man Redfern was—not who he is today.

Moreover, on October 15, 2021, Counsel for Redfern filed a memorandum in support of his pro se motion that we believe also addresses the Court's concerns. The memorandum explains how, at the time of his offenses, the decision-making portions of Redfern's brain were likely severely underdeveloped due to his long history of substance

abuse—he started drinking alcohol at age eight, started smoking marijuana at age thirteen, and started abusing Valium at age sixteen. *Id.* at 3, 12. The memorandum also highlights Redfern’s personal development. Despite serious criminal conduct in his youth and a rocky start to his time in prison, Redfern improved his conduct, learned job skills that will help him succeed outside of prison, and earned an outstanding review from his work supervisor. *Id.* at 10–11. Also, Redfern is registered for the LifeWorks! program offered by the Center for Community Transitions, which provides a two-week employment readiness workshop and guarantees a job interview with an employer that is ready to hire. *Id.* at 17. Further, the church Redfern attended as a child has committed to pair him with a mentor and provide job application assistance to help smooth his transition into society. *Id.* at 17–18. These and other arguments from Redfern’s supplemental memorandum that address the Court’s concerns were not discussed in the Court’s analysis.

Because the Court’s denial of Redfern’s motion was based on concerns addressed by newly admitted records and a supplemental memorandum not included in the Court’s analysis, we respectfully ask the Court to reconsider its Order and reduce Redfern’s sentence to time served.¹ If, however, the Court decides against a sentence of time served, we ask the Court to reduce Redfern’s sentence to time served plus the number of months the Court deems appropriate to account for any factors it believes weigh against immediate release.

¹ We note that the Court and the Government agree that Redfern would likely receive a 264-month sentence if sentenced today. Order at 5; Dkt. No. 247 at 7. Because Redfern has already been credited with 262 months as of November 8, 2021, Dkt. No. 247-1, and because Good Conduct Time for the final year of a prisoner’s sentence is credited at the start of the year, 18 U.S.C. § 3624(b)(1), our understanding is that a 264-month sentence for Redfern would be equivalent in effect to reducing his sentence to time served.

Respectfully submitted,

s/ Chad F. Lee

Chad F. Lee

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DATE: December 13, 2021