

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

LLOYD WASHINGTON, JR.

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CRIMINAL ACTION NO. 07-258-1

ORDER

Defendant, Lloyd Washington, Jr., has filed a motion pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), seeking a modification of his term of imprisonment to time served based on the current coronavirus pandemic and his high risk of death or serious illness if he contracts COVID-19. This Court is authorized under § 3582(c)(1)(A)(i) to modify a term of imprisonment upon the finding that “extraordinary and compelling reasons” warrant the reduction. The Court finds as follows:

1. On July 30, 2009, Defendant Lloyd Washington, Jr. was convicted at trial of one count of conspiracy to possess cocaine with intent to distribute, in violation of 21 U.S.C. § 846, and one count of attempted possession of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1).

2. On April 13, 2012, Washington was sentenced to 192 months of imprisonment to be followed by five years of supervised release.

3. Washington is currently housed at FCI Beckley in Beaver, West Virginia. His minimum release date from the Bureau of Prisons (“BOP”) is November 17, 2022. Washington has served approximately 70 percent of his minimum sentence. His BOP inmate number is 61246-066. As of May 12, 2020, FCI Beckley has reported no cases of COVID-19 among its inmates and staff members. However, there has been no testing of inmates at FCI Beckley for

COVID-19.

4. Defendant Washington is 50 years old and suffers from severe obesity, hypertension, diabetes, and several other physical illnesses. Therefore, according to the Centers for Disease Control and Prevention (CDC), he is at high risk of death or serious illness if he contracts COVID-19.

5. On April 10, 2020, Washington presented a request to the warden at FCI Beckley, requesting that BOP exercise its discretion to place him on home confinement pursuant to 18 U.S.C. § 3624(c)(2) because of his high risk of medical complications and death if he were to contract COVID-19.

6. On April 20, 2020, Washington filed his motion for compassionate release with this Court, which was filed only 10 days after his request to his warden, which was still pending.

7. On April 22, 2020, the government filed its response, requesting that Washington's motion be dismissed without prejudice to later presentation pending his exhaustion of an administrative remedy or 30 days after his request to his warden, whichever was earlier, under the terms of Section 3582(c)(1)(A).

8. On April 23, 2020, the Court held a telephonic hearing regarding Washington's compassionate release request. During this telephonic hearing, the Court directed Washington's counsel to file a supplemental motion requesting specific relief.

9. On April 28, 2020, Washington filed a supplemental motion for compassionate release, requesting that he be permitted to serve the remainder of his sentence on home confinement with his father at 2690 Irish Hill Road, Magnolia, Delaware. Washington states that he would have use of his own bedroom and bathroom – separate from the rest of his family – to self-quarantine at this residence.

10. On May 5, 2020, the warden at FCI Beckley denied Washington's request for compassionate release because the warden did not find that Washington's fear of possibly contracting COVID-19 warranted release. Washington did not seek an administrative appeal. However, as of May 10, 2020, the required 30-day period of exhaustion under Section 3582(c)(1)(A) had passed since Washington presented his compassionate release request to his warden.

11. On May 14, 2020, having now had the opportunity to fully review pertinent records, the government filed a response in support of Washington's compassionate release and concurs that "extraordinary and compelling reasons" exist to allow a sentence reduction, and consideration of all pertinent factors, including the length of sentence served and the apparent absence of any danger to the public, warrants a reduction to time served.¹ The Court agrees. Although the charges of which he is convicted are serious, Washington has no other convictions and has no history of violence, and his discipline record in prison shows only two incidents at the lowest level for possessing an unauthorized item in 2012.²

12. The government and Washington jointly request that the remainder of the original term of imprisonment be replaced by an additional term of supervised release, as permitted by Section 3582(c)(1)(A), with a condition of home confinement consistent with the release plan. Washington requests that this period of home confinement while on supervised release run until May 2022, while the government contends that because Washington's currently scheduled release date is November 17, 2022, the period of home confinement while on supervised release should run for 30 months. Counsel for Defendant has advised the Court that Defendant does not

¹ Doc. No. 528.

² Def.'s Supp. Mot. Exh. G [Doc. 527-7]. Counsel represents that the infractions were for improper possession of food and states that Defendant may have one recent similar infraction. Def's Supp. Mot. at 9 [Doc. No. 527].

oppose the government's proposal, and the Court agrees that the period of home confinement should continue for 30 months.

13. The Court further agrees that the previously imposed five-year period of supervised release should still apply, and has been informed that Defendant does not oppose this condition.

14. The U.S. Probation Office has approved the release plan for Defendant.

15. According to the government, it is the policy of the Department of Justice to request the quarantine of any inmate who is released, in order to protect public health and safety. In this case, however, the government states that, according to an official at FCI Beckley, quarantining has already been accomplished at the institution. According to this official, (1) since on or about April 10, 2020, inmates at FCI Beckley's low-security camp, where Defendant Washington has been located, have been placed in single-bed cells and could stay in their cells all day, with meals delivered; and (2) no higher level of quarantine is possible for Washington without transferring him to FCI Beckley's medium-security facility, a process which could risk Washington, as well as other inmates and staff, to exposure to COVID-19. Accordingly, the government requests the Court to order that, upon arrival to his father's residence, Washington will further quarantine himself in his own bedroom and bathroom for a period of 14 days to ensure his and his family's safety and to comply with public health guidelines.

AND NOW, this 14th day of May 2020, upon consideration of Defendant's Motion for Compassionate Release [Doc. No. 522] and the Supplemental Motion [Doc. No. 527], which the government does not oppose, and for the reasons stated above, it is hereby **ORDERED** that Defendant Lloyd Washington, Jr.'s motions are **GRANTED** and his term of imprisonment is commuted to time served.

IT IS FURTHER ORDERED that the BOP shall release Defendant Lloyd Washington,

Jr. as soon as practicable, but no later than 24 hours after this Order is entered.

IT IS FURTHER ORDERED that Defendant Lloyd Washington, Jr. shall still serve the previously imposed five-year period of supervised release.

IT IS FURTHER ORDERED that the remainder of the original term of Defendant Lloyd Washington Jr.'s imprisonment shall be replaced by an additional term of 30 months of supervised release, with the condition that Defendant reside during that time with his father at 2690 Irish Hill Road, Magnolia, Delaware, and Defendant shall abide by all other conditions of supervised release imposed by the U.S. Probation Office.

IT IS FURTHER ORDERED that, upon his arrival at the above- identified residence, Defendant shall further quarantine himself in his own bedroom and bathroom for a period of 14 days to ensure his and his family's safety and to comply with public health guidelines.

IT IS SO ORDERED.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.