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March 29, 2020

Patricia S. Dodszuweit, Clerk
United States Court of Appeals
for the Third Circuit
Suite 21400 – United States Courthouse
601 Market Street
Philadelphia, PA 19106

RE: *United States v.* [REDACTED], Appeal No. [REDACTED]

Dear Ms. Dodszuweit:

I would appreciate your forwarding this letter to the panel considering [REDACTED]'s emergency motion to postpone his self-surrender date.

In the 48 hours since the filing of [REDACTED]'s motion, the nation's death count has doubled.¹ By this afternoon, the number of confirmed cases within BOP facilities will likely have doubled, as well.²

Also since the filing of [REDACTED]'s motion, BOP has made available the screening tool it uses for incoming inmates.³ As anticipated, it is antiquated and ineffectual at this point in the pandemic—indeed, it was fundamentally flawed from the beginning. The tool dates to February,

¹ *Trump says quarantine for New York area 'will not be necessary'; U.S. coronavirus-related deaths double in two days*, at <https://www.washingtonpost.com/world/2020/03/28/coronavirus-latest-news>.

² BOP reports only once per day, at 3:00 p.m. Confirmed cases rose from 18 to 27 as of 3:00 p.m. yesterday. *COVID-19 Tested Positive Cases*, at <https://www.bop.gov/coronavirus>.

³ *Coronavirus Disease 2019 (COVID-19) Inmate Screening Tool*, at https://www.bop.gov/coronavirus/docs/covid19_inmate_screening_tool_20200202.pdf.

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and asks about travel and close contact with people *diagnosed* with COVID-19. Astonishingly, *if the answers to those two questions are “no,” BOP personnel are instructed to proceed with normal intake without asking whether the person is experiencing any symptoms of COVID-19.* That is how BOP has been screening from day one.

The problems with the tool are manifest. First and foremost, its approach to exposure risk ignores the phenomena of community spread and asymptomatic carriers. Travel is becoming an inconsequential criterion as community spread has been present throughout the country for some time. And the requirement that a close contact actually be diagnosed with COVID-19 all but ensures an answer of “no”—testing has been largely unavailable in this country from the beginning, particularly for the poor and unconnected who make up the vast majority of incoming inmates.⁴

Very truly yours,

/s/ [REDACTED]

cc: [REDACTED]

⁴ *‘It’s Just Everywhere Already’: How Delays in Testing Set Back the U.S. Coronavirus Response*, at <https://www.nytimes.com/2020/03/10/us/coronavirus-testing-delays.html>; *Politicians jockeying for covid-19 tests find proximity to Trump is the fastest route*, at https://www.washingtonpost.com/national/health-science/politicians-jockeying-for-covid-19-tests-find-proximity-to-trump-is-the-fastest-route/2020/03/25/0f87c928-6e31-11ea-b148-e4ce3fbd85b5_story.html.