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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOUGLAS BLOUIN,

Defendant.

CR16-307 TSZ

ORDER

THIS MATTER comes before the Court on defendant Douglas Blouin’s motion for compassionate release, docket no. 129. Having reviewed all papers filed in support of,<sup>1</sup> and in opposition to, the motion, the Court enters the following order.

**Background**

Defendant pleaded guilty to possession of child pornography and was sentenced on November 9, 2017, to 120 months in the custody of the United States Bureau of Prisons (“BOP”). *See* Judgment (docket no. 117). Defendant is currently incarcerated at

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<sup>1</sup> After the Government filed its response, defendant asked for permission to file a supplemental exhibit in support of his request for compassionate release. Defendant’s motion for leave to submit another exhibit, docket no. 138, is GRANTED, and the Court has considered Exhibit L, docket no. 138-1, which is a report by Michael Rowe, M.D.

1 Federal Correctional Institution (“FCI”) Terminal Island in California and has a projected  
2 release date of May 4, 2025. He seeks immediate release on the ground that his age (54)  
3 and medical conditions (hypertension and asthma) increase the possibility of acute illness  
4 or death from Coronavirus Disease 2019 (“COVID-19”).

### 5 Discussion

6 A sentence is generally considered final and may not be altered except in limited  
7 circumstances. *See* 18 U.S.C. § 3582(b); *see also* *Dillon v. United States*, 560 U.S. 817,  
8 824 (2010). Prior to 2018, a modification for reasons other than a post-conviction  
9 lowering of the applicable sentencing range could be made only upon a motion brought  
10 by the Director of BOP. *See United States v. Rodriguez*, --- F. Supp. 3d ---, 2020 WL  
11 1627331 at \*2 (E.D. Penn. Apr. 1, 2020). Congress has since enacted the First Step Act  
12 of 2018, which permits a defendant, after exhausting administrative remedies,<sup>2</sup> to directly  
13 request a reduction in the term of incarceration. *See* 18 U.S.C. § 3582(c)(1)(A). The  
14 First Step Act did not, however, amend the two statutorily-enumerated grounds for  
15 compassionate release, namely (i) the existence of “extraordinary and compelling  
16 reasons” supporting a reduction; or (ii) the satisfaction of certain criteria for a defendant  
17 sentenced to life imprisonment under 18 U.S.C. § 3559(c). *See id.* at § 3582(c)(1)(A)(i)  
18 & (ii). The second basis for relief does not apply in this case, and thus, defendant

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21 <sup>2</sup> The exhaustion requirement is satisfied on the earlier of (i) the resolution of an administrative  
22 appeal concerning BOP’s failure to bring a motion for early release on a defendant’s behalf, or  
23 (ii) the lapse of thirty (30) days after the warden of the facility at which the defendant is in  
custody receives a request to make such motion. 18 U.S.C. § 3582(c)(1)(A). The parties agree  
that defendant in this matter has met the prerequisite of exhaustion.

1 Douglas Blouin bears the burden of establishing that “extraordinary and compelling  
2 reasons” justify a decrease in the term of his imprisonment. *See Riley v. United States*,  
3 2020 WL 1819838 at \*7 (W.D. Wash. Apr. 10, 2020). In addition, any compassionate  
4 release must be consistent with (i) the sentencing factors set forth in 18 U.S.C. § 3553(a),  
5 and (ii) the applicable policy statement issued by the United States Sentencing  
6 Commission (“Commission”). *See* 18 U.S.C. § 3582(c)(1)(A).

7       The Commission’s relevant policy statement indicates that a defendant may be  
8 granted compassionate release only if he or she is “not a danger to the safety of any other  
9 person or to the community,” as evaluated in the manner outlined in 18 U.S.C. § 3142(g),  
10 which governs the release or detention of an accused pending trial. USSG § 1B1.13(2).  
11 Sections 3142(g) and 3553(a) have substantial overlap, both indicating that the Court  
12 should take into account (i) the nature and circumstances of the charged offense, (ii) the  
13 history and characteristics of the defendant, and (iii) the nature and seriousness of the  
14 danger to any person or the community that would be associated with the defendant’s  
15 release. *See* 18 U.S.C. §§ 3142(g)(1), (3), & (4), and 3553(a)(1) & (2)(C). Having  
16 considered these factors, the Court is persuaded that, even if defendant could demonstrate  
17 “extraordinary and compelling reasons” to support his motion, he has not made the  
18 requisite showing that his immediate release would not pose a risk to public safety.

19       Defendant was convicted in state court in 1998, at the age of 31, on two counts of  
20 child molestation in the first degree. Revised Presentence Investigation Report at ¶ 31  
21 (docket no. 107). He received a sentence of 142 days in custody and 89 months  
22 suspended, but he failed to comply with the conditions of supervision, and his probation  
23

1 was revoked. *Id.* Defendant served the remainder of his 89-month term of imprisonment  
2 and was released from custody in 2004. *Id.* He was on supervision until December 2006.  
3 *Id.* In 2010, defendant suffered a job-related injury and has been unemployed since then.  
4 *See id.* at ¶¶ 47 & 63. By 2014, defendant had turned to daily marijuana use and viewing  
5 of child pornography. *Id.* at ¶ 47. Defendant’s downloading of child pornography via a  
6 peer-to-peer file-sharing program attracted the attention of the Department of Homeland  
7 Security in 2016, and during the ensuing investigation, defendant indicated that he  
8 regularly used “scrubbing” software to wipe his computer hard drive. *Id.* at ¶¶ 6-7.  
9 Agents discovered multiple electronic devices at defendant’s residence, all of which had  
10 recently been wiped, except for one pornographic image of a male between the ages of 10  
11 and 12. *Id.* at ¶ 8.

12         Given defendant’s previous inability to comply with the conditions of supervision  
13 despite the significant period of incarceration he otherwise faced, and his earlier efforts to  
14 evade detection, defendant’s assertion that he now presents no danger to the community  
15 rings hollow. Defendant’s crime requires nothing more than access to the Internet, and  
16 defendant’s plan of release to a residential reentry center does little to satisfy the Court  
17 that defendant will not revert to the same criminal conduct or worse. *See United States v.*  
18 *Sims*, 2020 WL 2838611 (W.D. Wash. June 1, 2020); *see also United States v. Ramey*,  
19 2020 WL 4226543 (W.D. Wash. July 23, 2020). The Court is particularly concerned  
20 about defendant’s potential for reoffending in light of the difficulties in monitoring his  
21 behavior that result from social distancing and other protocols designed to avoid  
22 transmission of the coronavirus that causes COVID-19.

1 **Conclusion**

2 For the foregoing reasons, the Court ORDERS:

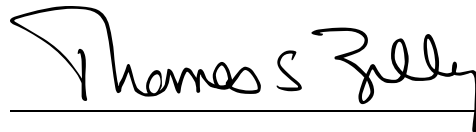
3 (1) Defendant's motion for compassionate release, docket no. 129, is DENIED;

4 (2) Defendant's motion for leave to file a supplemental exhibit, docket no. 138,  
5 is GRANTED; and

6 (3) The Clerk is directed to send a copy of this Order to all counsel of record.

7 IT IS SO ORDERED.

8 Dated this 22nd day of September, 2020.

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11 Thomas S. Zilly  
12 United States District Judge  
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