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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
MOZELLE FRAZIER-DUBOIS,  
  
Defendant.

Case No. CR15-89RSL  
  
ORDER GRANTING  
DEFENDANT’S MOTION  
FOR COMPASSIONATE  
RELEASE

This matter comes before the Court on defendant’s “Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1).” Dkt. #96. Defendant has also filed a “Motion to Seal” (Dkt. #97), which is GRANTED.<sup>1</sup> The Court, having considered the memoranda of the parties and the record contained herein, finds as follows:

**I. FACTUAL BACKGROUND**

Defendant is a 47-year-old inmate currently incarcerated at the Federal Correctional Institute (“FCI”) Dublin. In October 2015, defendant pled guilty to one count of conspiracy to distribute cocaine and heroin, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B), and one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i). Dkt. #52. On May 17, 2016, defendant was sentenced to 120 months’ imprisonment with five years of supervised release. Dkt. #86. Defendant is currently scheduled

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<sup>1</sup> The Court finds that compelling reasons justify sealing Exhibits 1 and 2 to defendant’s motion.

1 for release from the custody of the Federal Bureau of Prisons (“BOP”) on March 18, 2025. She  
2 now moves for compassionate release.

## 3 **II. LEGAL FRAMEWORK**

4 The compassionate release statute provides narrow grounds for defendants in  
5 “extraordinary and compelling” circumstances to be released from prison early. See 18 U.S.C.  
6 § 3582(c). The First Step Act of 2018 amended the procedural requirements governing  
7 compassionate release. See id. Prior to the First Step Act’s passage, only the Director of the  
8 BOP could bring motions for compassionate release. The Director rarely filed such motions.  
9 See, e.g., United States v. Brown, 411 F. Supp. 3d 446, 448 (S.D. Iowa 2019). Congress  
10 amended the statute to allow defendants to directly petition district courts for compassionate  
11 release. As amended, 18 U.S.C. § 3582(c)(1)(A) states in relevant part,

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

14 (1) in any case—

15 (A) the court, upon motion of the Director of the Bureau of  
16 Prisons, or upon motion of the defendant after the defendant  
17 has fully exhausted all administrative rights to appeal a failure  
18 of the Bureau of Prisons to bring a motion on the defendant’s  
19 behalf or the lapse of 30 days from the receipt of such a  
20 request by the warden of the defendant’s facility, whichever  
21 is earlier, may reduce the term of imprisonment (and may  
22 impose a term of probation or supervised release with or  
23 without conditions that does not exceed the unserved portion  
24 of the original term of imprisonment), after considering the  
25 factors set forth in section 3553(a) to the extent that they are  
26 applicable, if it finds that—

23 (i) extraordinary and compelling reasons warrant such  
24 a reduction; . . .

25 (ii) . . .

26 and that such a reduction is consistent with the  
27 applicable policy statements issued by the Sentencing  
28 Commission[.]

1 Prior to passing the First Step Act, Congress directed the Sentencing Commission to  
 2 promulgate a policy statement defining “extraordinary and compelling reasons” in the  
 3 compassionate release context. See 28 U.S.C. § 994(t). Section 994(t) provides,

4 The Commission, in promulgating general policy statements regarding the  
 5 sentencing modification provisions in [18 U.S.C. § 3582(c)(1)(A)], shall  
 6 describe what should be considered extraordinary and compelling reasons  
 7 for sentence reduction, including the criteria to be applied and a list of  
 8 specific examples. Rehabilitation of the defendant alone shall not be  
 9 considered an extraordinary and compelling reason.

10 The Sentencing Commission implemented this directive from Congress with a policy  
 11 statement—U.S.S.G. § 1B1.13. In relevant part, the policy statement provides,

**Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A)  
 (Policy Statement)**

12 Upon motion of the Director of the Bureau of Prisons under 18 U.S.C.  
 13 § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may  
 14 impose a term of supervised release with or without conditions that does  
 15 not exceed the unserved portion of the original term of imprisonment) if,  
 16 after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent  
 17 they are applicable, the court determines that—

- 18 (1)(A) Extraordinary and compelling reasons warrant the reduction;  
 19 . . .
- 20 (2) The defendant is not a danger to the safety of any other person or  
 21 to the community, as provided in 18 U.S.C. § 3142(g); and
- 22 (3) The reduction is consistent with this policy statement.

**Commentary**

**Application Notes:**

- 23 1. **Extraordinary and Compelling Reasons.**—Provided the  
 24 defendant meets the requirements of subdivision (2),  
 25 extraordinary and compelling reasons exist under any of the  
 26 circumstances set forth below:

(A) **Medical Condition of the Defendant**—

- 27 (i) The defendant is suffering from a terminal illness (i.e.,  
 28 a serious and advanced illness with an end of life  
 trajectory). A specific prognosis of life expectancy

1 (i.e., a probability of death within a specific time  
2 period) is not required. Examples include metastatic  
3 solid-tumor cancer, amyotrophic lateral sclerosis  
4 (ALS), end-stage organ disease, and advanced  
5 dementia.

6 (ii) The defendant is—

7 (I) suffering from a serious physical or medical  
8 condition,

9 (II) suffering from a serious functional or cognitive  
10 impairment, or

11 (III) experiencing deteriorating physical or mental  
12 health because of the aging process,

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

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

22 (C) **Family Circumstances.**—

23 (i) The death or incapacitation of the caregiver of the  
24 defendant’s minor child or minor children.

25 (ii) The incapacitation of the defendant’s spouse or  
26 registered partner when the defendant would be the  
27 only available caregiver for the spouse or registered  
28 partner.

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

2. **Foreseeability of Extraordinary and Compelling Reasons.**—

For purposes of this policy statement, an extraordinary and  
compelling reason need not have been unforeseen at the time of  
sentencing in order to warrant a reduction in the term of

1 imprisonment. Therefore, the fact that an extraordinary and  
 2 compelling reason reasonably could have been known or  
 3 anticipated by the sentencing court does not preclude  
 consideration for a reduction under this policy statement.

4 **3. Rehabilitation of the Defendant.**—Pursuant to 28 U.S.C.  
 5 § 994(t), rehabilitation of the defendant is not, by itself, an  
 6 extraordinary and compelling reason for purposes of this policy  
 statement.

7 **4. Motion by the Director of the Bureau of Prisons.**—A  
 8 reduction under this policy statement may be granted only upon  
 9 motion by the Director of the Bureau of Prisons pursuant to 18  
 10 U.S.C. § 3582(c)(1)(A). The Commission encourages the  
 11 Director of the Bureau of Prisons to file such a motion if the  
 12 defendant meets any of the circumstances set forth in Application  
 13 Note 1. The court is in a unique position to determine whether  
 14 the circumstances warrant a reduction (and, if so, the amount of  
 15 reduction), after considering the factors set forth in 18 U.S.C.  
 § 3553(a) and the criteria set forth in this policy statement, such  
 as the defendant’s medical condition, the defendant’s family  
 circumstances, and whether the defendant is a danger to the  
 safety of any other person or to the community.

16 This policy statement shall not be construed to confer upon the  
 17 defendant any right not otherwise recognized in law[.]

18 U.S.S.G. § 1B1.13.<sup>2</sup>

### 19 **III. DEFENDANT’S CIRCUMSTANCES**

#### 20 **a. Exhaustion Requirement**

21 Before the Court can consider the merits of defendant’s motion, it must determine  
 22 whether she has met the statutory exhaustion requirement for compassionate release. See 18  
 23 U.S.C. § 3582(c)(1)(A). The parties agree that defendant satisfied this requirement by filing a  
 24 request with the Warden of FCI Dublin on April 28, 2020, Dkt. #96-1 at 2, which was denied on

25  
 26 <sup>2</sup> For the reasons set forth in detail in United States v. Van Cleave, Nos. CR03-247-RSL, CR04-  
 27 125-RSL, 2020 WL 2800769, at \*3-5 (W.D. Wash. May 29, 2020), “the Court finds the guidance of  
 28 U.S.S.G. § 1B1.13 persuasive, but not binding.” Id. The Court will exercise its discretion to consider  
 “extraordinary and compelling” circumstances that may exist beyond those explicitly identified by the  
 Sentencing Commission in its outdated policy statement. Id.

1 May 11, 2020, id. at 3. Finding that defendant has exhausted her administrative remedies, the  
2 Court will consider the merits of her motion for compassionate release.

3 **b. “Extraordinary and Compelling” Reasons**

4 Defendant’s motion for compassionate release is based primarily on her heightened risk  
5 for developing serious complications if she contracts COVID-19 while incarcerated at FCI  
6 Dublin. The Court need not reiterate the widely known information regarding the symptoms of  
7 COVID-19 and the devastating global impact of the virus. COVID-19 has created  
8 unprecedented challenges for federal prisons, where inmate populations are large and close  
9 contact between inmates is unavoidable. As of September 28, 2020, the BOP reports 1,887  
10 federal inmates and 703 BOP staff have active, confirmed positive COVID-19 test results. See  
11 COVID-19 Coronavirus, Fed. Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last visited  
12 September 28, 2020). Since the BOP reported its first case in late March 2020, at least 124  
13 federal inmates and two BOP staff members have died from the virus. Id. FCI Dublin currently  
14 reports no active cases of COVID-19, but six inmates and six BOP staff are classified as  
15 “recovered” from the virus. Id.

16 Defendant has established that her health issues place her at higher risk for developing  
17 serious complications if she contracts COVID-19. A review of defendant’s BOP medical  
18 records confirms that she suffers from a constellation of health issues, including type 2 diabetes  
19 mellitus, hyperlipidemia, hypertension, and obesity. Dkt. #98-1 at 137-38. The government  
20 concedes that defendant has established “extraordinary and compelling” circumstances because  
21 she suffers from type 2 diabetes and obesity, underlying medical conditions that the Centers for  
22 Disease Control (“CDC”) has recognized as increasing an individual’s risk of developing severe  
23 illness from COVID-19. See Dkt. #101 at 6; see also People with Certain Medical Conditions,  
24 CDC, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html)  
25 [conditions.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html) (last visited September 28, 2020). The Court agrees and finds that defendant  
26 has met her statutory burden to establish that “extraordinary and compelling” reasons support  
27 her compassionate release.

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2 **c. Additional Considerations**

3 Before the Court can grant defendant's motion for compassionate release, however, it  
4 must also find that she "is not a danger to the safety of any other person or to the community, as  
5 provided in 18 U.S.C. § 3142(g)." U.S.S.G. § 1B1.13. The government asserts that defendant's  
6 record precludes such a finding. Dkt. #101 at 8-10. The offenses for which defendant has  
7 served the current term of imprisonment are very serious. However, the Court notes defendant's  
8 past struggles with substance abuse and addiction, and the possible organizing influence that her  
9 co-defendant had in the offenses that led to her imprisonment. PSR at ¶¶ 66-70; Dkt. #79 at 3.  
10 Defendant has demonstrated prosocial behavior while incarcerated, including completing the  
11 Residential Drug Abuse Program ("RDAP") and becoming a lead senior mentor of the program,  
12 while also completing a variety of other programming. See Dkts. #96-2, #96-3. Defendant also  
13 has an approved release plan, which includes living with her very supportive parents, who are  
14 committed to assisting her financially and emotionally. Dkts. #96-1 at 5, #102. In light of these  
15 circumstances, the Court finds defendant is not a danger to the safety of any other person or to  
16 the community as provided in § 3142(g). See U.S.S.G. § 1B1.13.

17 In addition, prior to granting compassionate release, the Court must assess whether a  
18 sentence reduction to time served is consistent with the sentencing factors set forth in 18 U.S.C.  
19 § 3553(a). See 18 U.S.C. § 3582(c)(1)(A). Section 3553(a) requires the Court to "impose a  
20 sentence sufficient, but not greater than necessary, to comply with the purposes set forth in  
21 paragraph (2)," which requires that a sentence reflect the seriousness of and provide just  
22 punishment for the offense. 18 U.S.C. § 3553(a). Again, the offenses that led to defendant's  
23 current term of imprisonment are very serious, and as the government emphasizes, she has  
24 served less than half of her ten-year sentence. But the extraordinary nature of the COVID-19  
25 pandemic has altered life as we know it. While defendant deserved the sentence the Court  
26 imposed in May 2016, the risks to defendant's life and health now outweigh the punitive  
27 benefits that would be gained from keeping her incarcerated. Cf. United States v. Pippin, CR16-  
28 266-JCC, 2020 WL 2602140, at \*3 (W.D. Wash. May 20, 2020). Accordingly, the Court

1 intends to convert defendant's remaining term of imprisonment into a one-year term of home  
2 detention as an additional condition of supervised release. Under these circumstances, the Court  
3 is satisfied that defendant's sentence reduction is consistent with the objectives of § 3553(a).

4 **IV. CONCLUSION**

5 For all the foregoing reasons, defendant's Motion for Compassionate Release (Dkt. #96)  
6 is GRANTED. Additionally, defendant's motion to seal (Dkt. #97) is GRANTED.

7 IT IS HEREBY ORDERED that defendant's custodial sentence be reduced to time  
8 served. Supervised release shall commence immediately upon defendant's release from  
9 custody, during which time defendant shall be subject to the mandatory, standard, and special  
10 conditions of supervision set forth in the Judgment (Dkt. #86), as well as the other conditions set  
11 forth in this Order:

12 The defendant shall participate in the location monitoring program  
13 with Active Global Positioning Satellite technology for a period of  
14 12 months. The defendant is restricted to her residence at all times  
15 except for employment, religious services, medical, legal reasons, or  
16 as otherwise approved by the location monitoring specialist. The  
17 defendant shall abide by all program requirements, and must  
18 contribute towards the costs of the services, to the extent financially  
19 able, as determined by the location monitoring specialist.

20 All other provisions of sentencing remain as previously set.

21 IT IS FURTHER ORDERED that defendant shall be released to her approved release  
22 address fourteen (14) days from the date of this order to accommodate a quarantine period with  
23 the Federal Bureau of Prisons. If defendant tests positive for COVID-19 any time during this  
24 quarantine period, BOP will notify the government who will immediately notify the Court so  
25 that this order can be modified appropriately.

26 IT IS SO ORDERED.

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1 DATED this 5<sup>th</sup> day of October, 2020.

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3 Robert S. Lasnik  
4 United States District Judge

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