

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

UNITED STATES OF AMERICA)
)
v.) CASE NO.: 1:18-CR-70-HAB
)
JEFFREY A. GAUNT)

OPINION AND ORDER

Before the Court is Defendant’s “Judicial Notice Regarding Defendant’s CARES ACT Release Date and Updated COVID-19 Case Statistics for Morgantown FCI” wherein he advises that he has a release date to home confinement of November 19, 2020, from the BOP and requests that this Court immediately release him to home confinement. (ECF No. 105).

The CARES Act does in fact grant broad discretion to the BOP regarding release to home confinement. However, such decisions still remain exclusively with the BOP. Nothing in the CARES Act changed the statutory authority granted in Title 18 U.S.C. § 3621(b) and this Court still lacks the power to order home confinement under the CARES Act. *See generally United States v. Scott*, No. 16-10003-02-EFM, 2020 WL 5513616, at *2 (D. Kan. Sept. 14, 2020) (“Although the CARES Act allows the BOP additional authority to grant and extend home confinement during the COVID-19 pandemic, it does not grant the Court jurisdiction to grant a request.”); *United States v. Erickson*, No. 2:17-CR-591 DB, 2020 WL 4732125, at *4 (D. Utah Aug. 14, 2020) (“While the CARES Act grants broader discretion to the BOP to use home confinement, it does not grant this Court the authority or jurisdiction to do the same.”); *United States v. Williams*, No. CR 2:12-539, 2020 WL 1940836, at *2 (S.D. Tex. Apr. 22, 2020) (“While the CARES Act allows the BOP Director to lengthen the amount of time a prisoner may be placed in home confinement, nothing in the Act grants individual prisoners the right to serve the remainder of their sentence in

home confinement. The BOP still has exclusive authority to determine where a prisoner is housed. 18 U.S.C. § 3621(B).”); *United States v. Engleson*, 2020 WL 1821797, at *1 (S.D.N.Y. Apr. 10, 2020) (while court can recommend, ultimate decision whether to release inmate to home confinement rests with BOP); *United States v. Hembry*, 2020 WL 1821930, at *2 (N.D. Cal. Apr. 10, 2020); *United States v. Carter*, 2020 WL 1808288, at *2 (S.D. Ind. Apr. 9, 2020); *United States v. Garza*, 2020 WL 1485782, at *1 (S.D. Cal. Mar. 27, 2020).

Accordingly, because this Court lacks jurisdiction to consider Gaunt’s request for immediate release to home confinement, the Defendant’s Motion (ECF No. 105) is DENIED.

SO ORDERED on September 29, 2020.

s/ Holly A. Brady

JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT