

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 16-CR-20703-DPG**

UNITED STATES OF AMERICA

Plaintiff,

v.

ALEXANDRA SLOVKOVIC,

Defendant.

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**NOTICE OF FILING AND REQUEST FOR RULING**

COMES NOW, the Defendant, ALEXANDRA SLOVKOVIC (“Ms. Slovkvic”), by and through undersigned counsel who files herewith the recent ruling made by the Honorable Judge Ursula Ungaro in Ms. Slovkvic’s companion case.

This Court sentenced, Ms. Slovkvic to a two (2) year consecutive term. In view of Judge Ungaro’s Order (see Exhibit A), undersigned counsel respectfully requests that this Court Grant Ms. Slovkvic’s Renewed Motion for Compassionate Relief filed before this Court.

Undersigned counsel has spoken to Assistant United States Attorney Robert Juman who opposes this renewed motion.

Dated: May 8, 2020.

Respectfully submitted,  
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# Exhibit A

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Crim. No. 1:16-cr-20171-UU

UNITED STATES OF AMERICA,

v.

ALEXANDRA SLAVKOVIC,

Defendant.

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**ORDER GRANTING COMPASSIONATE RELEASE**

THIS CAUSE comes before the Court upon Defendant's *pro se* emergency motion for compassionate release (D.E. 122) and subsequent counseled motion for compassionate release (D.E. 130) (the "Motion").

The Court has considered the Motion, the pertinent portions of the record, and is otherwise fully advised in the premises.

**I. Background**

On January 17, 2017, the Court sentenced Defendant to 168 months imprisonment and lifetime supervised release for conspiracy to possess with intent to distribute 50 grams or more of meth. D.E. 90. On January 30, 2017, Judge Gayles sentenced Defendant to 24 months imprisonment for failure to appear, to be served consecutive to the instant case. 16-CR-20703-DPG, D.E. 18. Defendant is 59 years old and incarcerated at Tallahassee FCI with a projected release date of July 23, 2024.

Defendant asks the Court to reduce her sentence to time-served with the balance of her sentence to be served in home confinement in light of the COVID-19 pandemic because she suffers from numerous lung issues including tuberculosis, pulmonary granuloma, and mild centrilobular

emphysematous disease noted in the lungs. *See* D.E. 130 at 10–11. On April 13, 2020, the warden denied Defendant’s administrative request for compassionate release. D.E. 129-1.

## **II. Legal Standard**

The First Step Act of 2018 (the “Act”) went into effect on December 21, 2018. First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. Prior to the passage of the Act, prisoners could file motions for compassionate release with the BOP, and only the Director of the BOP could file motions for compassionate release with the court. Section 603(b) of the Act modified 18 U.S.C. § 3582(c)(1)(A) to “increase[e] the use and transparency of compassionate release.” Pub. L. No. 115-391, § 603(b), 132 Stat. 5194, 5239. Section 3582(c)(1)(A) now permits a prisoner to file a motion for compassionate release directly with the court:

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

(i) extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission . . . .

18 U.S.C. § 3582(c)(1)(A) (emphasis added).

A sentence reduction under Section 3582(c)(1)(A) is consistent with the Sentencing Commission’s applicable policy statement where “extraordinary and compelling” reasons merit the reduction and the defendant is not a danger to any person or to the community. U.S.S.G. § 1B1.13(2) & cmt. n.1. Extraordinary and compelling reasons include:

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

(i) The defendant is suffering from a terminal illness (*i.e.*, a serious and advanced illness with an end of life trajectory). A specific prognosis of life expectancy (*i.e.*, a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.

(ii) The defendant is—

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

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

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

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

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

(C) Family Circumstances

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

(ii) The incapacitation of the defendant's spouse or registered partner when the defendant would be the only available caregiver for the spouse or registered partner.

(D) As determined by the Director of the [BOP], 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)

U.S.S.G. § 1B1.13, cmt. n.1. Thus, before reducing a sentence under Section 3582(c)(1)(A)(i), a sentencing court must do three things: (1) find that extraordinary and compelling reasons warrant such a reduction; (2) find that the defendant is not a danger to any person or to the community; and (3) consider the statutory sentencing factors set forth in Section 3553(a).

### **III. Discussion**

#### **A. Extraordinary and Compelling Reasons**

According to the Centers for Disease Control and Prevention, individuals who are over 65 years old or suffer from serious heart conditions, hypertension, diabetes, or asthma are among those at a higher risk of becoming seriously ill due to COVID-19. CTRS. FOR DISEASE CONTROL &

PREVENTION, *Groups at Higher Risk for Severe Illness*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html> (last updated Apr. 17, 2020). Several courts have granted COVID-19-based compassionate release to individuals in their 60s who suffer from one or more preexisting health issues that would render them susceptible to serious illness from COVID-19.<sup>1</sup>

The Court concludes that Defendant has demonstrated extraordinary and compelling reasons justifying her immediate release. She is 59 years old and suffers from serious lung issues, which substantially increases her risk of severe illness if she contracts COVID-19. Defendant's PSI indicates that she was tested for the presence of tuberculosis (TB) during her latest incarceration and the result was positive; she informed the U.S. Probation Officer that as a result of having experienced TB, she now has calcified scars in her lungs (PSI ¶ 65). Notably this finding was made in 2016 well before the inception of this pandemic. Defendant's medical records indicate that she has multiple pulmonary nodules and scarring at the left lung base (D.E. 122 at 3, exam date 04/02/19), and a 5mm calcified pulmonary granuloma at the left lung apex as well as scarring at the left lung base (D.E. 122 at 5, exam date 12/24/18). Additionally, she had mild centrilobular emphysematous disease, noted in the lungs (D.E. 122 at 8, exam date 08/04/15).

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<sup>1</sup> See *United States v. Resnick*, No. 1:12-cr-00152-CM-3, 2020 U.S. Dist. LEXIS 59091, 2020 WL 1651508 (S.D.N.Y. Apr. 2, 2020) (granting compassionate release to 65-year-old defendant who suffered from diabetes and end-stage liver disease, where defendant had served about half of his 6-year sentence for fraud convictions); *United States v. Rodriguez*, No. 2:03-cr-00271-AB-1, 2020 U.S. Dist. LEXIS 58718, 2020 WL 1627331 (E.D. Pa. Apr. 1, 2020) (granting compassionate release to defendant who had diabetes, hypertension, and liver issues); *United States v. Gonzalez*, No. 2:18-CR-0232-TOR-15, 2020 U.S. Dist. LEXIS 56422, 2020 WL 1536155 (E.D. Wa. Mar. 31, 2020) (granting compassionate release to 64-year-old defendant who had COPD and emphysema); *United States v. Zukerman*, No. 16 Cr. 194 (AT), 2020 WL 1659880 (S.D.N.Y. Apr. 3, 2020) (granting compassionate release to 75-year-old defendant who served nearly 4 years of a 70-month tax fraud sentence and suffered from diabetes, hypertension, and obesity); *United States v. Muniz*, No. 4:09-CR-0199-1, 2020 U.S. Dist. LEXIS 59255, 2020 WL 1540325 (S.D. Tex. Mar. 30, 2020) (granting compassionate release to defendant who suffered from diabetes, hypertension, and end-stage renal disease); *United States v. Colvin*, No. 3:19-CR-179, 2020 WL 1613943, at \*4 (D. Conn. Apr. 2, 2020) (granting compassionate release where defendant had diabetes and hypertension).

The health risks Defendant would face by COVID-19 will be minimized by her immediate release to home confinement, where she will quarantine herself. Continued exposure to the large population of Tallahassee FCI over the coming weeks would impose upon Defendant additional, unnecessary health risks which can be minimized by her early release. In so concluding, the Court is grievously aware of the current global health crisis caused by COVID-19. The President has declared a National Emergency due to the spread of the novel coronavirus and states and localities across the nation have implemented measures to stymie its rapid spread. And while the Court is aware of the measures taken by the Federal Bureau of Prisons, news reports of the virus's spread in detention centers within the United States demonstrate that individuals housed within our prison systems remain particularly vulnerable to infection.<sup>2</sup>

#### B. Danger to the Community

Section 1B1.13 of the Guidelines provides that compassionate release is only appropriate where the defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g). U.S.S.G. § 1B1.13(2). Section 3142(g) outlines the factors the Court must consider in determining whether a defendant should be detained pending trial. Specifically, Section 3142(g) provides:

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<sup>2</sup> See, e.g., Kristine Phillips, *More than 1,500 federal prisoners now have COVID-19 as officials expand testing*, USA TODAY (Apr. 30, 2020), <https://www.usatoday.com/story/news/politics/2020/04/29/coronavirus-bureau-prisons-has-1-300-covid-19-cases-30-deaths/3046668001/>; Danielle Ivory, *"We Are Not a Hospital": A Prison Braces for the Coronavirus*, N.Y. TIMES (March 17, 2020), <https://www.nytimes.com/2020/03/17/us/coronavirus-prisons-jails.html> (citing densely populated living conditions, dearth of soap, hand sanitizer, and protective gear, and impossibility of maintaining safe distance between inmates and guards as reasons prisoners are at particular risk of infection).

Further, the BOP has significantly increased the use of home confinement in response to the Attorney General's directives. FED. BUR. OF PRISONS, *COVID-19*, <https://www.bop.gov/coronavirus/> (last visited May 6, 2020, at 12:09 p.m. EST) ("Since the release of the Attorney General's original memo to the Bureau of Prisons on March 26, 2020 instructing us to prioritize home confinement as an appropriate response to the COVID-19 pandemic, the BOP has placed an additional 2,023 inmates on home confinement; an increase of 70.9 percent.").

**(g) Factors to be considered.** The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

- (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;
- (2) the weight of the evidence against the person;
- (3) the history and characteristics of the person, including—
  - (A) the person’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
  - (B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
- (4) the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.

18 U.S.C. § 3142(g). At sentencing, Defendant was deemed a career offender with a criminal history score of 7. PSI ¶¶ 46, 47. She is not a violent offender and her prior convictions are all drug-related: conspiracy to import one kilogram or more of heroin; possession with intent to distribute 50 grams or more of meth; possession of cocaine; and numerous supervised release violations. *Id.* ¶¶ 43–45. Additionally, a review of Defendant’s chronological disciplinary history with the BOP did not reveal any violations since her incarceration in 2016. The Court finds there are conditions of release that would mitigate any danger to the community.

Defendant provides that “If the Court were to grant this Motion, Ms. Slavkovic would return to her condominium located at 8000 East Drive, 206, North Bay Village, Fl 33141, a two-bedroom residence with two bathrooms and a separate entrance for her. The condominium which she owns is presently being rented by a tenant who would immediately vacate the residence upon Ms. Slavkovic’s release for social distancing purposes.” D.E. 130 at 2. The U.S. Probation Office



has deemed the residence suitable and spoken with the tenant, who provided that he and Defendant reached an agreement where he would rent one of the bedrooms in the apartment upon Defendant's release.

C. Section 3553 Factors

The applicable § 3553(a) factors likewise support Defendant's request for compassionate release. Section 3553(a) provides:

**(a) Factors to be considered in imposing a sentence.**—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
  - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
  - (B) to afford adequate deterrence to criminal conduct;
  - (C) to protect the public from further crimes of the defendant; and
  - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence[s] and the sentencing range established for—
  - (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines ... [;]
- (5) any pertinent policy statement ... [;]
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a).

The Court agrees that Defendant's offense was very serious. But she has been in custody over 3 years, and if afforded the relief she requests, she will still be required to serve her lifetime term of supervised release and satisfy additional conditions of release. That sanction adequately expresses the seriousness of the offense, deters criminal conduct, and protects the public. *See United States v. Cantu*, 2019 LEXIS 10092, at \*16–18 (S.D. Tex. June 17, 2019). The Court

concludes that the applicable Section 3553(a) factors support Defendant's request for compassionate release.

**IV. Conclusion**

Accordingly, for the reasons stated herein, it is hereby ORDERED AND ADJUDGED that:

1. Defendant's Motions, D.E. 122 and D.E. 130, are GRANTED.
2. The United States Marshal Service and/or the United States Bureau of Prisons shall promptly release Defendant from custody.
3. Defendant's sentence of imprisonment is reduced to time served effective the date of this Order, and the BOP shall release Defendant for placement at 8000 East Drive, # 206, North Bay Village, FL 33141.
4. Defendant shall self-quarantine at home for at least 14 days, consistent with her release plan.
5. Defendant's lifetime supervised release term shall begin upon her release.
6. Simultaneously herewith, the Court will enter an AMENDED Judgment imposing a sentence of "time served" and converting the remaining term of incarceration into **one (1) year of home confinement** as an additional condition of supervised release.
7. Special conditions of Defendant's supervised release shall include: (1) mental health counseling; (2) substance abuse treatment; and (3) completion of Moral Reconciliation Therapy (MRT).

DONE AND ORDERED in Chambers, Miami, Florida, this 8th day of May, 2020.



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URSULA UNGARO  
UNITED STATES DISTRICT JUDGE

cc: counsel of record via cm/ecf