The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,	)	No. CR15-230JCC
Plaintiff,	)	
	)	**Supplemental Authority in Support of**
v.	)	**Defendant's Motion for Compassionate**
	)	**Release Pursuant to 18 U.S.C. § 3582(c)(1)**
TERRANCE L. COSGROVE,	)	
	)	
Defendant.	)	
	)	

On May 10, 2017, Terrance Cosgrove was sentenced to sixty months incarceration with three years of supervised release. Dkt. 48. After having served over two years in prison, Mr. Cosgrove filed a compassionate release motion to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A).[1] Dkt. 71. The motion is now briefed by both parties. Dkt. 79 (Govt. Response); Dkt. 87 (Def. Reply). However, since that time, the coronavirus outbreak has occurred and wreaked havoc. In light of the outbreak, the defense files this supplemental authority to simply add this fact and explain its relevance to the analysis that Mr. Cosgrove's release does not present

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[1] Mr. Cosgrove is currently incarcerated at FCI Terminal Island, a Care Level III facility, and is projected to complete his sentence January 17, 2022. *See* Bureau of Prisons Inmate Locator at: *https://www.bop.gov/inmateloc/*. Mr. Cosgrove has therefore, served more than two years and has less than two years remaining on the original sentence imposed, not counting his *early* release eligibility sometime in 2021 pursuant to 18 U.S.C. § 3621(e) and BOP Program Statement 5331.02.

SUPPLEMENTAL AUTHORITY IN SUPPORT
OF COMPASSIONATE RELEASE MOTION
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a danger to the safety of any other person or to the community and is in keeping with all relevant § 3553(a) factors. Dkt. 87 at 17-21.

According to public health experts, incarcerated individuals "are at special risk of infection, given their living situations," and "may also be less able to participate in proactive measures to keep themselves safe;" "infection control is challenging in these settings."[2] Outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases.[3] In China, officials have confirmed the coronavirus spreading at a rapid pace in Chinese prisons, counting 500 cases.[4] It is therefore, entirely likely that the coronavirus outbreak will occur in the institutional setting at some point. And Mr. Cosgrove is particularly vulnerable if and when this infectious disease spreads throughout the Bureau of Prisons given his age and chronic and serious debilitating medical conditions. Dkt. 87 at 7-11.

Releasing Mr. Cosgrove will not only protect him from the risk of infection when the coronavirus outbreak makes its way into the Bureau of Prisons facilities but also avoids the unavoidable impact upon the quality of the medical care he requires[5] by taxing an already taxed system.[6] Moreover, his release will have the added benefit of opening a medical bed to other

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[2] "Achieving A Fair And Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States," (March 2, 2020), *at* https://bit.ly/2W9V6oS.

[3] *Prisons and Jails are Vulnerable to COVID-19 Outbreaks*, The Verge (Mar. 7, 2020) *at* https://bit.ly/2TNcNZY.

[4] Rhea Mahbubani, *Chinese Jails Have Become Hotbeds of Coronavirus As More Than 500 Cases Have Erupted, Prompting the Ouster of Several Officials*, Business Insider (Feb. 21, 2020) *at* https://bit.ly/2vSzSRT.

[5] *See* Dkt. 87 at 7-10.

[6] *See, e.g.,* Dkt. 87 at n. 10 (citing to Natalie Hinton, Comment, *Curing the BOP Plague with Booker: Addressing the Inadequate Treatment in the Bureau of Prisons*, 41 J. Marshall L. Rev. 219, 231 (2007) (noting "BOP overpopulated and understaffed for years.")

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inmates who will need the medical attention with the coronavirus. Indeed, Secretary of State Mike Pompeo has called for Iran to release Americans detained there because of the "deeply troubling" "[r]eports that COVID-19 has spread to Iranian prisons," noting that "[t]heir detention amid increasingly deteriorating conditions defies basic human decency."[7] Brooklyn District Attorney Eric Gonzalez, joined by public health experts, has asked Governor Cuomo to grant emergency clemencies to elderly and sick prisoners.[8] For these reasons, as well as those set forth in the Reply (Dkt. 87), compassionate relief is warranted.

DATED this 13th day of March 2020.

Respectfully submitted,

s/ *Jennifer E. Wellman*
Assistant Federal Public Defender
Attorney for Terrance Cosgrove

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[7] Jennifer Hansler and Kylie Atwood, *Pompeo calls for humanitarian release of wrongfully detained Americans in Iran amid coronavirus outbreak*, CNN (Mar. 10, 2020) *at*   https://cnn.it/2W4OpV7.
[8] Sarah Lustbader, *Coronavirus: Sentenced to COVID-19*, The Daily Appeal (Mar. 12, 2020) *at* https://theappeal.org/sentenced-to-covid-19/.

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