

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

UNITED STATES OF AMERICA

v.

SAMANTHA OLIVER

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Case No. JKB-16-0485

EMERGENCY MOTION FOR IMMEDIATE TRANSFER TO HOME CONFINEMENT

The defendant, Samantha Oliver, by and through Kirstin Maguire Hopkins, Assistant Federal Public Defender, respectfully moves this Honorable Court to immediately release the defendant from a halfway house that unreasonably exposes residents to the risk of infection by COVID-19, and allow her to serve the remainder of her sentence in home confinement. Ms. Oliver is scheduled to be released from Volunteers of America (“VOA”) on June 16, 2020. The Court in similar circumstances has released defendants from the same halfway house in recent days. *See United States v. Erica Cook*, No. JKB-16-0485, ECF No. 1727 (granting request for one of Ms. Oliver’s co-defendants); *United States v. Demario King*, No. DKC-16-0484, ECF No. 1472; *United States v. Valleria Rice*, RDB-17-0127, ECF No. 506. Undersigned counsel has asked Assistant U.S. Attorney Leo Wise for his position on this request but has not received a response by the time of filing.

BACKGROUND

On November 9, 2017, Ms. Oliver entered a plea of guilty to engaging in a racketeering conspiracy, in violation of 18 U.S.C. § 1962(d). ECF No. 1095. She received a sentence of 27

months on March 20, 2018. ECF No. 1223. Ms. Oliver is presently being housed at VOA in Baltimore, Maryland.

COVID-19 PANDEMIC

As the Court is well aware, the nation is in the midst of responding to an unprecedented national health emergency due to COVID-19, a dangerous illness that is spreading rapidly throughout the world and, of particular salience to the instant motion, throughout Maryland. President Trump declared a national emergency due to COVID-19 on March 13, 2020.¹ Well prior to the national declaration, Maryland Governor Larry Hogan declared a State of Emergency in Maryland due to COVID-19 on March 5, 2020.² Illness and deaths are on the rise throughout the country.

Courts throughout the nation, including this one, have dramatically scaled back their operations. The Supreme Court has canceled oral argument—for the first time in 102 years—for the remainder of the month.³ Federal courts in Maryland, Virginia, and the District of Columbia are open for emergencies only.⁴ State courts in Maryland, the District of Columbia, and Virginia

¹ *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, Donald Trump, March 13, 2020, available at <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

² *Declaration of State of Emergency and Existence of Catastrophic Health Emergency-COVID-19*, by Governor Hogan, March 5, 2020, available at <https://governor.maryland.gov/wp-content/uploads/2020/03/Proclamation-COVID-19.pdf>.

³ U.S. Supreme Court Press Release, March 16, 2020, available at https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_03-16-20.

⁴ See various Standing Orders filed in *In re COVID-19 Pandemic Procedures*, Misc. No. 20-146, United States District Court for the District of Maryland; *In re Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order 20-9, United States District Court for the District of Columbia; *In re: Court Operations under the Exigent Circumstances Created by the Outbreak of Coronavirus Disease 2019 (COVID-19): Temporary Continuance of Court Proceedings and Restrictions on Visitors to Courthouses*, General Order No. 2020-03, United

are all also operating on an emergency basis and are essentially closed to the general public.⁵ Schools are shut throughout the region.⁶ The governor of Maryland, acting in a similar vein to officials in California, Colorado, Connecticut, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, New Hampshire, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and Washington, has ordered that all restaurants and bars be shut down indefinitely.⁷ Elections have been delayed, including the Maryland presidential primary scheduled for April 28, 2020.⁸ The CDC recommended that any gathering of more than 50 people be cancelled or postponed for at least eight weeks, and the President of the United States urged Americans to avoid gathering in groups of more than ten people for the next 15 days.⁹ The

States District Court for the Eastern District of Virginia.

⁵ See generally Maryland Judiciary Coronavirus (COVID-19) Updates, available at <https://mdcourts.gov/coronavirusupdate>; DC Courts' Coronavirus Advisories, available at <https://www.dccourts.gov/coronavirus>; In re: Order Declaring a Judicial Emergency in Response to COVID-19 Emergency, Supreme Court of Virginia, March 16, 2020, available at http://www.courts.state.va.us/2020_0316_scv_order_declaration_of_judicial_emergency.pdf.

⁶ See, e.g., *State Superintendent Salmon Announces Temporary Closure of Maryland Public Schools*, March 12, 2020, available at <https://news.maryland.gov/msde/state-superintendent-salmon-announces-temporary-closure-of-maryland-public-schools/>.

⁷ See *Order of the Governor of the State of Maryland Amending and Restating The Order of March 12, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and Additionally Closing Bars, Restaurants, Fitness Centers, and Theaters*, Governor Hogan, March 16, 2020, available at <https://www.courts.state.md.us/sites/default/files/import/coronavirus/eo20200316restatingorderofmarch12gatherings.pdf>. See also “*The States and Cities Banning In-Person Dining at Restaurants and Bars During the Coronavirus Outbreak*”, Fox News, March 16, 2020, available at <https://www.foxnews.com/food-drink/states-closing-bars-restaurants-coronavirus-outbreak>.

⁸ “*Ohio Governor Announces Polls will be Closed Tuesday Over Coronavirus*”, Dan Merica, CNN, March 17, 2020, available at <https://www.cnn.com/2020/03/16/politics/ohio-primary/index.html>; “*Maryland Postpones Primary, Shifts Special Election to Mail Voting Over Coronavirus*”, Alice Miranda Ollstein and Zach Montellaro, Politico, March 17, 2020, available at <https://www.politico.com/news/2020/03/17/maryland-postpones-april-28-primary-election-over-coronavirus-133776>.

⁹ See “*CDC Recommends Against Gatherings of Fifty or More; States Close Bars and Restaurants*”, Emma Bowman, NPR, March 15, 2020, available at <https://www.npr.org/2020/03/15/816245252/cdc-recommends-suspending->

governor of Maryland has banned gatherings of more than ten people and urged residents to utilize transit for essential travel only.¹⁰ Jails throughout Maryland have suspended visitation.¹¹ Legal visits and social visits are suspended in all Bureau of Prisons facilities.¹²

ARGUMENT

Custodial living spaces, such as prisons and jails, pose severe and serious risks for the transmission of COVID-19. Incarcerated individuals live in cells with multiple people in close quarters. Halfway houses present similar, and perhaps worse, challenges. Residents in halfway houses eat, socialize, and participate in programming in common areas. Similarly, workers and residents frequently come and go from halfway houses, potentially carrying with them any diseases or viruses to which they were exposed. An additional risk in halfway houses, though, is that the residents themselves are sometimes permitted to leave for the day, take public transportation to a place of employment, and return later in the day.

Ms. Oliver should be released immediately from VOA and allowed to serve the remainder of her sentence in home confinement under conditions left to the discretion of the Bureau of Prisons

[gatherings-of-50-or-more-people-for-the-next-8-weeks](#); “*The President’s Coronavirus Guidelines for America, 15 Days to Slow the Spread*”, announced March 16, 2020, and available at https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf.

¹⁰ “*Governor Hogan Announces Further Actions To Slow The Spread of COVID-19, Relaunches ‘Maryland Unites’ Initiative*”, announced March 18, 2020, and available at <https://governor.maryland.gov/2020/03/19/governor-hogan-announces-further-actions-to-slow-the-spread-of-covid-19-relaunches-maryland-unites-initiative/>.

¹¹ “*MD State Prison Visits Suspended Immediately*”, Press Release, March 12, 2020, from Maryland Department of Public Safety and Correctional Services, available at <https://news.maryland.gov/dpssc/wp-content/uploads/sites/4/2020/03/VISITS-CANCELLED-31220.pdf>.

¹² “*Federal Bureau of Prisons COVID-19 Action Plan*”, March 13, 2020, available at https://www.bop.gov/resources/news/20200313_covid-19.jsp.

and/or the U.S. Probation Office. VOA is not a safe facility for Ms. Oliver during the COVID-19 pandemic. The very nature of the VOA facility, and many halfway houses like it, runs contrary to the consistent guidance from governmental and other officials tasked with preventing further spread of COVID-19.

A normal day at VOA necessarily involves deviating from numerous guidelines for handling COVID-19. Residents like Ms. Oliver are consistently exposed to living and socializing in confined spaces; there is no practical way to avoid other people. Residents at VOA are required to eat in common areas alongside more than 10 other people. Ms. Oliver has informed undersigned counsel that VOA has been permitting individuals to come in and out of the facility, despite the ongoing health crisis and the continuing spread of the novel coronavirus. Additionally, Ms. Oliver has informed undersigned counsel that a number of people in the facility are sick and coughing and not receiving medical treatment. Furthermore, Ms. Oliver has explained that she and other residents do not have access to cleaning supplies or masks to protect themselves. In sum, VOA's failure to enforce precautionary measures promulgated by the CDC, and other health authorities, threatens the health of its residents, including Ms. Oliver.

CONCLUSION

Ms. Oliver respectfully requests that the Court order her immediate release from VOA and allow her to serve the remainder of her sentence in home confinement. Ms. Oliver submits that the details of the home confinement can be left to the discretion of the U.S. Probation Office.

Respectfully submitted,

JAMES WYDA

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/s/

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ORDER

For the reasons stated in the Defendant's Emergency Motion for Immediate Transfer to Home Confinement from Volunteers of America, it is hereby ORDERED that:

1. Ms. Oliver is to be released immediately from Volunteers of America;
2. Ms. Oliver is to be immediately transferred to home confinement to serve the remainder of her sentence;
3. Ms. Oliver is to reside at a residence approved by the U.S. Probation Office.

SO ORDERED this ____ day of March 2020.

THE HONORABLE JAMES K. BREDAR
Chief United States District Judge