

IN THE SUPREME COURT OF THE UNITED STATES

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No. \_\_\_\_\_

IN RE MATHEW RYAN BYRD, *Petitioner*,

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ON PETITION FOR A WRIT OF MANDAMUS TO  
THE UNITED STATED COURT OF APPELAS  
FOR THE FOURTH CIRCUIT

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PETITION FOR A WRIT OF MANDAMUS

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APPENDIX

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA, )  
                                  )      Notice of Appeal  
Plaintiff,                   )  
                                  )  
v.                             )  
                                  )      Case No. 19-cr-080  
MATHEW RYAN BYRD,           )  
                                  )  
Defendant.                   ) 

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Notice is hereby given that Mathew Ryan Byrd, defendant in the above-named matter, hereby appeals to the United States Court of Appeals for the Fourth Circuit from the Order entered in this action on January 29, 2021 denying Defendant's Second Motion to Reduce Sentence Pursuant to § 3572(c)(1)(A)(i).

Dated: February 1, 2021  
Fort Lee, New Jersey

Respectfully Submitted,

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**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:19-00080

MATHEW BYRD

**ORDER**

Pending is Defendant Mathew Ryan Byrd's Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). ECF No. 89. Following a defendant's exhaustion of his or her administrative remedies, a court may reduce the defendant's sentence if the court finds "extraordinary and compelling reasons warrant such a reduction." 18 U.S.C. § 3582(c)(1)(A)(i). In the current COVID-19 outbreak, "courts have found extraordinary and compelling reasons for compassionate release when an inmate shows both a particularized susceptibility to the disease and a particularized risk of contracting the disease at his prison facility." *U.S. v. Feiling*, No. 3:19CR112 (DJN), 2020 WL 1821457, at \*7 (E.D. Va. Apr. 10, 2020). Mr. Byrd states he has submitted a motion to the warden of FCI McDowell without response, and thus, has exhausted his administrative rights. ECF No. 89 at 3.

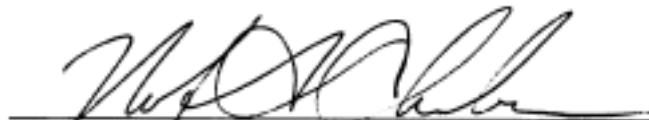
Mr. Byrd claims that he has demonstrated extraordinary and compelling circumstances warranting a sentence reduction because he has acute bronchial disorder, acute respiratory illness, pre-stage diabetes, asthma, high blood pressure, high cholesterol, and is on a C-Pap machine. *Id.* at 2. Even if these conditions show that he has a particularized susceptibility to COVID-19, the Bureau of Prisons reports that at this time only 1 staff member and 0 inmates at FCI McDowell have confirmed active cases of COVID-19. *COVID-19 Cases*, BUREAU OF PRISONS,

<https://www.bop.gov/coronavirus/> (last visited August 31, 2020). Accordingly, Mr. Byrd has failed to show a particularized risk of contracting the virus at his prison facility.

While the Court understands Mr. Byrd's concerns regarding COVID-19, the mere possibility of contracting the virus is not a sufficiently "extraordinary and compelling" reason to justify a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A)(i). *See, e.g., United States v. Feiling*, No. 3:19cr112 (DJN), 2020 WL 1821457, at \*7 (E.D. Va. Apr. 10, 2020) (reasoning that "the *fear* of contracting a communicable disease proves insufficient to justify a sentence modification" (internal quotations omitted) (emphasis in original)).

The Court accordingly **DENIES** Defendant Byrd's Motion and **DIRECTS** the Clerk to send a copy of this Order to counsel and the Defendant, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service.

ENTER: September 1, 2020



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:19-00080

MATHEW BYRD

**ORDER**

Pending is Defendant Mathew Ryan Byrd's Motion for Reconsideration of Order Denying Emergency Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). ECF No. 92. For the reasons stated below, the Court **DENIES** Mr. Byrd's Motion.

Following a defendant's exhaustion of his or her administrative remedies, a court may reduce the defendant's sentence if the court finds "extraordinary and compelling reasons warrant such a reduction." 18 U.S.C. § 3582(c)(1)(A)(i). Mr. Byrd claims he has exhausted his administrative remedies by submitting a request for compassionate release to the Warden of FCI McDowell. ECF No. 93, at 2–3; ECF Nos. 96–98. Mr. Byrd states that the Warden's denial of the request was conveyed to him by his case manager. ECF No. 93, at 3. The Court is satisfied that Mr. Byrd has exhausted his administrative remedies but finds that he has failed to establish extraordinary and compelling reasons to warrant a reduction in his sentence.

As noted in the Court's order on Mr. Byrd's first motion for compassionate release, in the COVID-19 pandemic, courts have found that "extraordinary and compelling reasons" exist when "an inmate shows both a particularized susceptibility to the disease and a particularized risk of contracting the disease at his prison facility." *U.S. v. Feiling*, No. 3:19CR112 (DJN), 2020 WL 1821457, at \*7 (E.D. Va. Apr. 10, 2020) (collecting cases).

In support of his Motion for Reconsideration, Mr. Byrd claims that his underlying medical conditions warrant a reduction in his sentence. ECF No. 93, at 6–7; ECF No. 116, at 3–4, 6–11. Mr. Byrd has provided pre-incarceration medical records that mention complaints and/or diagnoses of shortness of breath; obesity; gastrointestinal issues; a mild ventilatory defect in his lungs; acute kidney injury, pneumonia, and acute respiratory failure related to a heroin overdose in 2015; and a history of skin infections. ECF No. 96, at 6, 7, 8, 14–15, 18, 23. In response, the Government has provided medical records from the Bureau of Prisons that indicate Mr. Byrd has anxiety and depression diagnoses and he is currently prescribed Buspirone and Citalopram to treat those conditions. ECF 112, at 13; ECF No. 115. These records indicate that since his incarceration, Mr. Byrd has not been seen or treated for the illnesses he claims warrant a reduction in his sentence.

While the Court is not unsympathetic to Mr. Byrd’s concerns about contracting COVID-19 and does not doubt that Mr. Byrd has experienced or sought medical care for his claimed maladies in the past, the Court finds there is a lack of evidence to support a finding that he is currently suffering from a serious condition that makes him particularly susceptible to the coronavirus or otherwise merits relief under § 3582(c)(1)(A)(i).

Moreover, consistent with its previous order, the Court finds that Mr. Byrd has failed to show that he is at a particularized risk of contracting COVID-19. Mr. Byrd is incarcerated at FCI McDowell. While Mr. Byrd has indicated that the number of cases at FCI McDowell has increased since he filed his first motion, ECF No. 93, at 1, the Court finds that the rates of COVID-19 at the facility are still low. According to the Bureau of Prisons, FCI McDowell currently has only three confirmed active cases among inmates. *See COVID-19 Cases, Federal Bureau of Prisons, <https://www.bop.gov/coronavirus/>* (last visited October 15, 2020).

The Court accordingly **DENIES** Defendant Byrd's Motion, ECF No. 92, and **DIRECTS** the Clerk to send a copy of this Order to counsel and the Defendant, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service.

ENTER: October 16, 2020



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:19-00080

MATHEW BYRD

**ORDER**

Pending is Defendant Mathew Ryan Byrd's Second Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3572(c)(1)(A)(i). ECF No. 125. Consistent with its previous orders, the Court **DENIES** Defendant Byrd's Motion.

**I. APPLICABLE LAW**

In December 2018, Congress enacted the First Step Act. *See* Pub. L. No. 115-391, 132 Stat. 5194. As part of the Act, Congress amended Section 3582 and enabled courts to reduce a term of imprisonment if "extraordinary and compelling reasons warrant such a reduction." *See* 18 U.S.C. § 3582(c)(1)(A)(i); Pub. L. 115-391, Title VI, § 603(b), Dec. 21, 2018, 132 Stat. 5239. But before defendants may request such a reduction, defendants must ask the BOP to do so on their behalf. *See* 18 U.S.C. § 3582(c)(1)(A). If the BOP denies the defendant's request or does not respond within 30 days, the defendant may file a motion before the court. *Id.*

If an inmate satisfies this administrative exhaustion requirement, courts may reduce the inmate's sentence if there are (1) "extraordinary and compelling reasons," (2) the defendant is "no longer a danger to the safety of any other person or to the community," and (3) release is consistent with the factors identified under 18 U.S.C. § 3553(a). *See* 18 U.S.C. § 3582(c); U.S.S.G. § 1B1.13 (2018).

During the COVID-19 pandemic, courts have recognized that compassionate release is appropriate where an inmate has shown both a particularized susceptibility to the virus and a particularized risk that he will contract the virus at his facility. *See, e.g., United States v. Feiling*, 453 F. Supp. 3d 832, 841 (E.D. Va. 2020); *United States v. Eberbaugh*, No. CR 2:18-00222-02, 2020 WL 4804951, at \*3 (S.D.W. Va. Aug. 18, 2020) (considering “the age of the prisoner, the severity and documented history of the defendant’s health conditions, and the proliferation and status of infections in the prison facility” to determine if compassionate release is appropriate).

## II. ANALYSIS<sup>1</sup>

Defendant Byrd filed his first motion for compassionate release on August 27, 2020. ECF No. 89. The Court denied that motion on September 1, 2020 finding that Byrd had failed to show a particularized risk of contracting COVID-19 at his prison facility. ECF No. 90, at 2. On September 25, 2020, with the assistance of counsel, Byrd filed a motion for reconsideration. ECF No. 93. After ordering the United States to respond to the motion, Court denied the motion for reconsideration on October 16, 2020. ECF No. 110; ECF No. 117. In its order denying reconsideration, the Court found there was “a lack of evidence to support a finding that [Byrd] is currently suffering from a serious condition that makes him particularly susceptible to the coronavirus or otherwise merits relief under § 3582(c)(1)(A)(i).” ECF No. 117, at 2. Additionally, the Court again found that Byrd had not shown a particularized risk of contraction at FCI McDowell. *Id.*<sup>2</sup>

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<sup>1</sup> The Court has twice found that Defendant Byrd sufficiently exhausted his administrative remedies. *See* ECF No. 90, at 1; ECF No. 117, at 1. Accordingly, it will not address exhaustion in this order and will jump directly into the merits of Byrd’s Motion.

<sup>2</sup> After this order was entered, a pro se motion was filed in Byrd’s case, which the Court denied as moot. *See* ECF No. 118; ECF No. 119. In the instant motion, Byrd states that the second pro se motion “was mistakenly filed on Mr. Byrd’s behalf and without his authorization by a paralegal . . . he had previously hired for assistance with his initial motion.” ECF No. 125-1, at 3. He further notes that he took steps to withdraw the unauthorized motion. *Id.*

In the present Motion, Byrd argues that extraordinary and compelling reasons exist to warrant release given his serious medical conditions and the increasing rates of COVID-19 infection in federal prisons, including FCI McDowell.

Regarding his medical conditions, Byrd states that he “suffers from a serious pulmonary condition and has full function in only one (1) lung due to his previous bouts with pneumonia and respiratory failure, as well as suffering from kidney disease and gastrointestinal issues and serious skin infection issues.” Def.’s Mem. 6, ECF No. 125-1. To support his motion, Byrd submitted additional medical records that show he was treated with Albuterol in the Fall of 2019 when he was detained at the Carter County Detention Center. *Id.*; *see* Exhibit A, ECF No. 125-2. Additionally, he cites BOP records that show he was treated on February 28, 2020; March 12, 2020; and June 10, 2020 for edema in his right leg. Def.’s Mem. 7; *see* Exhibit C, ECF No. 125-4.<sup>3</sup> Finally, he submitted a “Request for Administrative Remedy” dated October 23, 2020 in which Byrd complained both that he had been trying to obtain his medical records for weeks and that he was having trouble breathing. Def.’s Mem. 7; *see* Exhibit E, ECF No. 125-6. Given the foregoing, Byrd argues that he is suffering from serious conditions while incarcerated and that “BOP has refused to provide him with access to an Albuterol machine, which is necessary to assist with his breathing....” Def.’s Mem. 8.

Byrd also submits to the Court that the number of confirmed COVID-19 positives have substantially increased since the Court denied his last motion. *Id.* While there was only one confirmed case when the Court entered the October 16, 2020 order, Byrd states that number had increased to almost 100 inmate positives when he filed this motion. *Id.*

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<sup>3</sup> Byrd submits that edema can be caused by kidney problems. Def.’s Mem. 7.

Upon receipt and review of Byrd's Motion, the Court ordered the Government to Respond. ECF No. 126.<sup>4</sup> The United States filed a Response and attached Byrd's medical records. U.S. Resp., ECF No. 130; Records, ECF No. 130-1. The United States argues that Byrd has not provided enough evidence to support a finding that he is entitled to release based on his medical condition. U.S. Resp. 14–15. It argues that although his medical records show that he has reported “shortness of breath,” “[a]ccording to the physician’s notes, everything appeared normal and the tests, including a chest x-ray, showed no issues.” *Id.* at 15.<sup>5</sup> Moreover, the Government argues that FCI McDowell has “been effective at managing the COVID-19 pandemic within its walls.” *Id.* Although numerous inmates have contracted the virus, zero (0) deaths have occurred at the facility. *Id.* Finally, the Government submits that the BOP is beginning to administer vaccines to federal inmates, and that the vaccine should help protect inmates from COVID-19 infection. *Id.*

Upon a review of the Motion, Defendant's Memorandum in Support, the Government's Response, Defendant's Reply, and the Defendant's medical record, the Court concludes that Byrd has not established extraordinary and compelling circumstances.

The Court does not deny Byrd's claim that COVID-19 cases at FCI McDowell have increased significantly. Unfortunately, the BOP is presently reporting 52 confirmed positive cases among inmates at the prison. *COVID-19 Cases*, BOP, <https://www.bop.gov/coronavirus/> (last visited Jan. 27, 2021). Despite the increase in cases at FCI McDowell, the Court finds that Byrd has not shown a particularized susceptibility to the virus that would warrant relief under § 3582(c)(1)(A).

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<sup>4</sup> The Court also notes that Byrd has filed a Reply. ECF No. 131. The Reply largely reiterates the grounds Byrd presented in his Motion and addresses the Government's arguments that Byrd is a danger to the community and that release would not be appropriate in light of the § 3553(a) factors. Because the Court finds that Byrd has not established extraordinary and compelling circumstances to warrant release, it does not reach the questions of whether Byrd is a danger to others or if his release would comport with § 3553(a).

<sup>5</sup> The Government does, however, concede that Byrd is very overweight. U.S. Resp. 15.

While his records show that Byrd has recently complained of “lung issues,” he was examined by Health Services. Records 2. The note indicates Byrd could not articulate what his lung issues were and denied being prescribed an inhaler in the past. *Id.* Ultimately, Health Services found he was not in acute distress and noted that it would obtain records from his pre-incarceration medical providers. *Id.* Byrd’s examination resulted in zero abnormal findings. *Id.* at 3.

All in all, the filings in this case do not indicate that Byrd is currently struggling with maintain his health or that the BOP is unresponsive to his needs. In fact, the records show that the BOP is taking steps to monitor and treat Byrd’s medical condition. The most recent note shows that after Heath Services spoke with Byrd’s mother about his history of kidney disease, it ordered labs to be completed by the end of the month. Records 1.

As stated in its previous order, the Court is not indifferent or unsympathetic to the risk COVID-19 presents to incarcerated individuals. Still, the Court finds that insufficient evidence has been submitted to support a finding that release is appropriate in these circumstances.

### III. CONCLUSION

The Court accordingly **DENIES** Defendant Byrd’s Motion, ECF No. 125, and **DIRECTS** the Clerk to send a copy of this Order to counsel and the Defendant, the United States Attorney’s Office, the United States Probation Office, and the United States Marshals Service.

ENTER: January 29, 2021



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

## UNITED STATES DISTRICT COURT

Southern District of West Virginia

UNITED STATES OF AMERICA

v.

MATHEW RYAN BYRD

## JUDGMENT IN A CRIMINAL CASE

Case Number: 3:19-00080

USM Number: 70281-061

R. Lee Booten, II

Defendant's Attorney

## THE DEFENDANT:

 pleaded guilty to count(s) three and five pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court. was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. 841(a)(1)	Distribution of a Quantity of Heroin	1/31/2019	3
18 U.S.C. § 924(c)(1)(A)	Possession of Firearms in Furtherance of Drug Trafficking Crimes	2/5/2019	5

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) \_\_\_\_\_ Count(s) one, two, and four  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

2/3/2020

Date of Imposition of Judgment



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

2/4/2020

Date

DEFENDANT: MATHEW RYAN BYRD  
CASE NUMBER: 3:19-00080

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

46 months as to count three and a consecutive 60 months as to count 5 for a total of 106 months.

The court makes the following recommendations to the Bureau of Prisons:  
that the defendant be housed as close to Parkersburg, WV, as possible;  
that the defendant be allowed to participate in a Comprehensive Drug Abuse Treatment Program.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:  
 at \_\_\_\_\_  a.m.     p.m.    on \_\_\_\_\_.  
 as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:  
 before 2 p.m. on \_\_\_\_\_.  
 as notified by the United States Marshal.  
 as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MATHEW RYAN BYRD  
CASE NUMBER: 3:19-00080**SUPERVISED RELEASE**

Upon release from imprisonment, you will be on supervised release for a term of:

5 years.

**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.  
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4.  You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7.  You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: MATHEW RYAN BYRD  
CASE NUMBER: 3:19-00080**STANDARD CONDITIONS OF SUPERVISION**

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

**U.S. Probation Office Use Only**

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: MATHEW RYAN BYRD

CASE NUMBER: 3:19-00080

**SPECIAL CONDITIONS OF SUPERVISION**

The defendant will participate in a program of testing, counseling, and treatment for drug and alcohol abuse as directed by the probation officer.

The defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia in Local Rule of Criminal Procedure 32.3, as follows:

- 1) If the offender is unemployed, the probation officer may direct the offender to register and remain active with Workforce West Virginia.
- 2) Offenders shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. Offenders shall not use any method or device to evade a drug screen.
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments.
- 4) A term of community service is imposed on every offender on supervised release or probation. Fifty hours of community service is imposed on every offender for each year the offender is on supervised release or probation. The obligation for community service is waived if the offender remains fully employed or actively seeks such employment throughout the year.
- 5) The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

DEFENDANT: MATHEW RYAN BYRD  
CASE NUMBER: 3:19-00080**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<b>TOTALS</b>	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
	\$ 200.00	\$	\$	\$	\$

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
<b>TOTALS</b>	\$ 0.00	\$ 0.00	

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

\*\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MATHEW RYAN BYRD

CASE NUMBER: 3:19-00080

**ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES**

The special assessment will be paid through participation in the Inmate Financial Responsibility Program.

Pursuant to the preliminary order of forfeiture previously entered in this case, the defendant shall forfeit to the United States any and all property derived from or used to facilitate the distribution of controlled substances, including the 16 items described in the preliminary order of forfeiture.

**General Docket  
United States Court of Appeals for the Fourth Circuit**

<b>Court of Appeals Docket #:</b> 21-6192 US v. Mathew Byrd <b>Appeal From:</b> United States District Court for the Southern District of West Virginia at Huntington <b>Fee Status:</b> fee paid	<b>Docketed:</b> 02/05/2021
<b>Case Type Information:</b> 1) Other Criminal 2) Post-Conviction 3) null	
<b>Originating Court Information:</b> <b>District:</b> 0425-3 : <a href="#">3:19-cr-00080-1</a> <b>Presiding Judge:</b> Robert C. Chambers, U. S. District Court Judge <b>Date Filed:</b> 03/19/2019	
<b>Date Order/Judgment:</b> 01/29/2021	<b>Date Order/Judgment EOD:</b> 01/29/2021
	<b>Date NOA Filed:</b> 02/05/2021
	<b>Date Rec'd COA:</b> 02/05/2021
<b>Prior Cases:</b> <a href="#">20-4116</a> <b>Date Filed:</b> 02/10/2020 <b>Date Disposed:</b> 01/07/2021 <b>Disposition:</b> opn.u.sub	
<b>Current Cases:</b> None	

UNITED STATES OF AMERICA Plaintiff - Appellee	Lisa Grimes Johnston, Esq., Acting U. S. Attorney Direct: 304-345-2200 Email: <a href="mailto:lisa.johnston@usdoj.gov">lisa.johnston@usdoj.gov</a> [On Brief] OFFICE OF THE UNITED STATES ATTORNEY Southern District of West Virginia Suite 4000 300 Virginia Street East P. O. Box 1713 Charleston, WV 25326-1713
	Stephanie S. Taylor Direct: 304-529-5799 Email: <a href="mailto:stephanie.taylor2@usdoj.gov">stephanie.taylor2@usdoj.gov</a> [COR NTC Government] OFFICE OF THE UNITED STATES ATTORNEY Room 209 845 5th Avenue Huntington, WV 25714
V.  MATHEW RYAN BYRD (Federal Prisoner: 70281-061) Defendant - Appellant	Patrick Allen Mullin Direct: 212-639-1600 Email: <a href="mailto:Mullin@TaxDefense.com">Mullin@TaxDefense.com</a> [COR NTC Retained] LAW OFFICES OF PATRICK A. MULLIN Suite 2000 45 Rockefeller Plaza New York, NY 10111

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MATHEW RYAN BYRD

Defendant - Appellant

02/05/2021	<input type="checkbox"/> <a href="#">1</a> 1 pg, 12.11 KB	Case docketed. Originating case number: 3:19-cr-00080-1. Case manager: AWalker. Date notice of appeal filed: 02/05/2021 [21-6192] AW [Entered: 02/05/2021 04:46 PM]
02/05/2021	<input type="checkbox"/> <a href="#">2</a> 7 pg, 126.4 KB	FEE NOTICE issued to Patrick Allen Mullin - initial notice. Fee or application to proceed as indigent due 02/22/2021 Originating case number: 3:19-cr-00080-1. Mailed to: Byrd. [21-6192] AW [Entered: 02/05/2021 04:51 PM]
02/05/2021	<input type="checkbox"/> <a href="#">3</a> 6 pg, 41.15 KB	DOCKETING NOTICE issued Re: <a href="#">[1]</a> other criminal case. Originating case number: 3:19-cr-00080-1. Mailed to: Byrd. [21-6192] AW [Entered: 02/05/2021 04:53 PM]
02/15/2021	<input type="checkbox"/> <a href="#">4</a> 1 pg, 48.17 KB	APPEARANCE OF COUNSEL by Patrick A. Mullin for Mathew Ryan Byrd. [1000898812] [21-6192] Patrick Mullin [Entered: 02/15/2021 10:52 AM]
02/15/2021	<input type="checkbox"/> <a href="#">5</a> 3 pg, 135.7 KB	DOCKETING STATEMENT by Mathew Ryan Byrd. [21-6192] Patrick Mullin [Entered: 02/15/2021 10:53 AM]
02/17/2021	<input type="checkbox"/> <a href="#">6</a> 3 pg, 26.7 KB	BRIEFING ORDER filed. Paper copy requirements are temporarily suspended unless the case is under pre-argument review or being scheduled for argument, in which case a total of four paper copies of formal briefs and appendices are required. Opening brief and appendix due 03/24/2021. Response brief due 04/14/2021 [21-6192] AW [Entered: 02/17/2021 07:26 AM]
02/23/2021	<input type="checkbox"/> <a href="#">7</a> 1 pg, 146.36 KB	APPEARANCE OF COUNSEL by Stephanie S. Taylor for US. [1000904097] [21-6192] Stephanie Taylor [Entered: 02/23/2021 01:55 PM]
03/23/2021	<input type="checkbox"/> <a href="#">8</a> 36 pg, 281.57 KB	BRIEF by Mathew Ryan Byrd in electronic and paper format. Type of Brief: OPENING. [1000921169] [21-6192] Patrick Mullin [Entered: 03/23/2021 11:01 AM]
03/23/2021	<input type="checkbox"/> <a href="#">9</a> 487 pg, 25.78 MB	JOINT APPENDIX (electronic and paper form) by Mathew Ryan Byrd. Digital media exhibit volume? No. [1000921180] [21-6192] Patrick Mullin [Entered: 03/23/2021 11:07 AM]
03/23/2021	<input type="checkbox"/> 10	SEALED JOINT APPENDIX VOLUME(S) (court access only) (electronic & paper form) by Mathew Ryan Byrd . Digital media exhibit volume? No. Filed Ex parte: N. [21-6192] Patrick Mullin [Entered: 03/23/2021 11:09 AM]
03/23/2021	<input type="checkbox"/> <a href="#">11</a> 2 pg, 42.26 KB	CERTIFICATE OF CONFIDENTIALITY (Local Rule 25(c)) by Mathew Ryan Byrd. Sealing Required: Yes.. [21-6192] Patrick Mullin [Entered: 03/23/2021 11:09 AM]
03/23/2021	<input type="checkbox"/> <a href="#">12</a> 1 pg, 51.97 KB	ORDER filed sealing joint appendix volume number II. Copies to all parties. [1000921267] [21-6192] AW [Entered: 03/23/2021 11:53 AM]
04/08/2021	<input type="checkbox"/> <a href="#">13</a> 3 pg, 92.07 KB	MOTION by US file supplemental appendix.. Date and method of service: 04/08/2021 ecf. [1000930755] [21-6192] Stephanie Taylor [Entered: 04/08/2021 11:29 AM]
04/08/2021	<input type="checkbox"/> <a href="#">14</a> 1 pg, 54.15 KB	ORDER filed granting Motion to file supplemental appendix <a href="#">[13]</a> . Supplemental appendix due: 04/14/2021. Paper copy requirements are temporarily suspended unless the case is under pre-argument review or being scheduled for argument, in which case a total of four paper copies of formal briefs and appendices are required. Copies to all parties. [1000930785] [21-6192] AW [Entered: 04/08/2021 12:11 PM]
04/14/2021	<input type="checkbox"/> <a href="#">15</a> 23 pg, 216.63 KB	BRIEF by US in electronic and paper format. Type of Brief: RESPONSE. [1000934078] [21-6192] Stephanie Taylor [Entered: 04/14/2021 02:46 PM]
04/14/2021	<input type="checkbox"/> <a href="#">16</a> 43 pg, 357.3 KB	SUPPLEMENTAL APPENDIX (electronic and paper form) by US. Digital media exhibit volume? No. [1000934083] [21-6192] Stephanie Taylor [Entered: 04/14/2021 02:50 PM]
04/21/2021	<input type="checkbox"/> <a href="#">17</a> 0 pg, 0 KB	(ENTRY RESTRICTED) REPLY by Mathew Ryan Byrd to brief <a href="#">[15]</a> .. [21-6192] --[Edited 04/21/2021 by AW--see correction at ecf #21] Patrick Mullin [Entered: 04/21/2021 01:43 PM]
04/21/2021	<input type="checkbox"/> <a href="#">18</a> 2 pg, 41.63 KB	CERTIFICATE OF CONFIDENTIALITY (Local Rule 25(c)) by Mathew Ryan Byrd. Sealing Required: Yes. Description of document referenced by certificate: Appellant's Motion to Supplement the Record on Appeal and Supporting Exhibit. [21-6192] Patrick Mullin [Entered: 04/21/2021 01:44 PM]
04/21/2021	<input type="checkbox"/> 19	SEALED DOCUMENT (court access only) by Mathew Ryan Byrd. Document type: MOTION to supplement record. Date and manner of service: 04/21/2021 ecf. Filed Ex parte: N. [1000937983] [21-6192] Patrick Mullin [Entered: 04/21/2021 01:46 PM]
04/21/2021	<input type="checkbox"/> <a href="#">20</a> 1 pg, 88.08 KB	Docket correction requested from Mathew Ryan Byrd. [21-6192] AW [Entered: 04/21/2021 02:35 PM]
04/21/2021	<input type="checkbox"/> <a href="#">21</a> 19 pg, 209.03 KB	BRIEF by Mathew Ryan Byrd in electronic and paper format. Type of Brief: REPLY. [1000938141] [21-6192] Patrick Mullin [Entered: 04/21/2021 04:15 PM]
04/21/2021	<input type="checkbox"/> <a href="#">22</a> 2 pg, 13.61 KB	MOTION by Mathew Ryan Byrd to seal. Description of material to be sealed: Motion to Supplement the Record on Appeal and Supporting Exhibit.. Date and method of service: 04/21/2021 ecf. [1000938198] [21-6192] Patrick Mullin [Entered: 04/21/2021 05:44 PM]
04/26/2021	<input type="checkbox"/> <a href="#">23</a> 1 pg, 78.51 KB	NOTICE ISSUED to US requesting response to Motion to seal <a href="#">[22]</a> Response due 05/06/2021. [1000940297]. [21-6192] CP [Entered: 04/26/2021 11:42 AM]

05/03/2021	<input type="checkbox"/> <a href="#">24</a> 4 pg, 89.22 KB	RESPONSE/ANSWER by US to notice requesting response [23], Motion [22]. [21-6192] Stephanie Taylor [Entered: 05/03/2021 02:37 PM]
05/05/2021	<input type="checkbox"/> <a href="#">25</a> 4 pg, 21.71 KB	REPLY by Mathew Ryan Byrd to response [24].. [21-6192] Patrick Mullin [Entered: 05/05/2021 11:58 AM]
05/06/2021	<input type="checkbox"/> <a href="#">26</a> 2 pg, 55.84 KB	ORDER filed granting the Motion to seal [22] the motion to supplement the record on appeal and supporting exhibit.; granting in part and denying in part the Motion to supplement the record [19]. Supplemental Appendix due 05/17/2021. Paper copy requirements are temporarily suspended unless the case is under pre-argument review or being scheduled for argument, in which case a total of four paper copies of formal briefs and appendices are required. Copies to all parties. [1000947033] [21-6192] AW [Entered: 05/06/2021 08:22 AM]
05/10/2021	<input type="checkbox"/> <a href="#">27</a> 2 pg, 41.4 KB	CERTIFICATE OF CONFIDENTIALITY (Local Rule 25(c)) by Mathew Ryan Byrd. Sealing Required: Yes. Description of document referenced by certificate: Sealed Supplemental Appendix. [21-6192] Patrick Mullin [Entered: 05/10/2021 11:45 AM]
05/10/2021	<input type="checkbox"/> 28	SEALED SUPPLEMENTAL APPENDIX VOLUME(S) (court access only) (electronic & paper form) by Mathew Ryan Byrd . Digital media exhibit volume? N. Filed Ex parte: N. [21-6192] Patrick Mullin [Entered: 05/10/2021 11:46 AM]
05/10/2021	<input type="checkbox"/> <a href="#">29</a> 1 pg, 51.58 KB	ORDER filed sealing supplemental appendix. Copies to all parties. [1000949456] [21-6192] AW [Entered: 05/10/2021 03:39 PM]
06/23/2021	<input type="checkbox"/> <a href="#">30</a> 11 pg, 39.77 KB	MOTION by Mathew Ryan Byrd to expedite decision. Date and method of service: 06/23/2021 ecf. [1000973600] [21-6192] Patrick Mullin [Entered: 06/23/2021 02:06 PM]
06/24/2021	<input type="checkbox"/> <a href="#">31</a> 1 pg, 79.43 KB	NOTICE ISSUED to US requesting response to Motion to expedite decision. [30]Response due 07/06/2021.[1000973890]. [21-6192] AW [Entered: 06/24/2021 07:58 AM]
07/06/2021	<input type="checkbox"/> <a href="#">32</a> 4 pg, 108.67 KB	RESPONSE/ANSWER by US to notice requesting response [31], Motion to expedite decision [30]. Nature of response: in opposition. [21-6192] Stephanie Taylor [Entered: 07/06/2021 02:21 PM]
07/07/2021	<input type="checkbox"/> <a href="#">33</a> 6 pg, 29.26 KB	REPLY by Mathew Ryan Byrd to response [32].. [21-6192] Patrick Mullin [Entered: 07/07/2021 06:52 PM]
08/06/2021	<input type="checkbox"/> <a href="#">34</a> 9 pg, 1.09 MB	PRO SE MOTION by Mathew Ryan Byrd for judicial notice. [1000999478] [21-6192] AB [Entered: 08/06/2021 03:10 PM]

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