

APPENDIX

A

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-7174

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH LOUIS HALL,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. Henry E. Hudson, Senior District Judge. (3:16-cr-00028-HEH-1)

Submitted: January 20, 2022

Decided: January 25, 2022

Before WILKINSON, DIAZ, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joseph Louis Hall, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Louis Hall appeals the district court's order denying his motion for compassionate release. We have reviewed the record and find that the district court did not abuse its discretion. *See United States v. Kibble*, 992 F.3d 326, 329 (4th Cir.) (stating standard of review), *cert. denied*, 142 S.Ct. 383 (2021). Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 25, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7174
(3:16-cr-00028-HEH-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOSEPH LOUIS HALL

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

APPENDIX
B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 3:16-cr-28-HEH
)	
JOSEPH LOUIS HALL,)	
)	
Defendant.)	

MEMORANDUM ORDER
(Denying Defendant's Motion for Compassionate Release)

THIS MATTER is before the Court on Joseph Louis Hall's ("Defendant") Motion for Compassionate Release pursuant to Section 603 of the First Step Act of 2018: 18 U.S.C. § 3582(c)(1)(A) (as amended), filed on January 21, 2021. (ECF No. 37.)¹ Defendant seeks release from FCI Cumberland in light of the threat posed by the novel coronavirus ("COVID-19"). Defendant and the Government have filed memoranda supporting their respective positions, and Defendant's Motion is ripe for this Court's review. The Court will dispense with oral argument because the facts and legal contentions have been adequately presented to the Court, and oral argument would not aid in the decisional process. *See* E.D. Va. Local Crim. R. 47(J). For the reasons that follow, the Court will deny Defendant's Motion.

¹ Defendant initially filed his own *pro se* Motion for Compassionate Release on September 24, 2020. (ECF No. 28.) In an October 19, 2020 Order, this Court construed said Motion as Defendant's *pro se* Motion Pursuant to Section 603 of the First Step Act of 2018 and ordered the Clerk to appoint an attorney to represent Defendant. (ECF No. 30.) Defendant's counsel filed the Motion now before the Court.

As amended by the First Step Act, § 3582(c)(1)(A) authorizes courts to modify a criminal defendant's sentence on grounds of compassionate release under two circumstances. Such a request must come before the court either: (1) on the Director of the BOP's motion, or (2) on the defendant's motion, if "the defendant has fully exhausted all administrative rights to appeal a failure of the [BOP] 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" § 3582(c)(1)(A). A defendant may file a compassionate release motion with the district court thirty days after filing a request with the BOP, and "before the BOP even has considered whether he qualifies for relief under the catch-all provision" found in the Sentencing Commission's Application Note 1(D). *United States v. McCoy*, 981 F.3d 271, 276–77, 283 (4th Cir. 2020). The catch-all provision allows "the BOP and only the BOP to identify 'other reasons'" that warrant a sentence reduction. *Id.* at 280. "If the BOP nevertheless retains its determinative role under Application Note 1(D), then such defendants would be required either to forgo the 30-day lapse provision and wait for a BOP determination, or to forgo reliance on the catch-all provision in exchange for a timely decision by the district court." *Id.* at 283.

In this case, the BOP has not made a motion on Defendant's behalf. Instead, Defendant filed his own *pro se* Motion seeking judicial relief on September 24, 2020, and again through counsel on January 21, 2021. Defendant submitted a request for compassionate release to the Warden of FCI Cumberland on August 16, 2020, which the Warden denied on September 9, 2020. (ECF No. 37, Exs. 1–2.) This Court may consider

susceptible to experiencing severe symptoms should he become reinfected with COVID-19. (ECF No. 45.) Indeed, obesity and diabetes may place Defendant “at risk” for complications from COVID-19 reinfection.⁴ However, he is otherwise a healthy 55-year-old and has been fully vaccinated. (ECF No. 41 at 1.) Considering these factors, Defendant has not established extraordinary or compelling reasons warranting his early release.

There have been 327 positive cases of COVID-19 among the 1,027 inmates in FCI Cumberland. *See* FED. BUREAU OF PRISONS, *COVID-19 Coronavirus* (July 29, 2021) (showing 327 inmates recovered from COVID-19).⁵ However, there are currently no active cases among inmates or staff. *Id.* Furthermore, FCI Cumberland is taking COVID-19 seriously by instituting the following precautionary measures: limiting visiting hours and applying social distancing guidelines to visitations; limiting inmate movement and congregate gatherings to ensure social distancing; screening and COVID-19 testing for new inmates, staff, and contractors; quarantining inmates who test positive regardless of symptoms; and providing and encouraging all inmates to wear masks when social distancing cannot be maintained. *See* FED. BUREAU OF PRISONS, *BOP Modified Operations* (Nov. 25, 2020); FED. BUREAU OF PRISONS, *FCI Cumberland Special Visiting Schedule & Procedures*, (July 29, 2021).⁶ FCI Cumberland’s current lack of active

⁴ CNTRS. FOR DISEASE CONTROL AND PREVENTION, *People with Certain Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html#MedicalConditionsAdults> (last visited July 29, 2021).

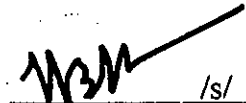
⁵ Available at www.bop.gov/coronavirus/.

⁶ Available at <https://www.bop.gov>.

Accordingly, Defendant's Motions for Compassionate Release (ECF Nos. 28, 37) are DENIED.

The Clerk is DIRECTED to send a copy of this Memorandum Order to all counsel of record.

It is so ORDERED.

 /s/

Henry E. Hudson
Senior United States District Judge

Date: July 29, 2021
Richmond, Virginia

APPENDIX

C

FILED: February 16, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7174
(3:16-cr-00028-HEH-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOSEPH LOUIS HALL

Defendant - Appellant

M A N D A T E

The judgment of this court, entered January 25, 2022, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk