

APPENDIX:

A

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 22-1548

United States of America

Plaintiff - Appellee

v.

Dennis Charles Helmer, also known as Jeff Jones, also known as Mr. Diamond, also known as
Dennis Dimon

Defendant - Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:14-cr-00257-DSD-1)

JUDGMENT

Before LOKEN, ERICKSON, and GRASZ, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered
by the court that the district court's denial of compassionate release is summarily affirmed. See
Eighth Circuit Rule 47A(a).

March 21, 2022

Rec *May 5/2/22*

14:18 Hrs

Legal Mail

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 22-1548

United States of America

Appellee

v.

Dennis Charles Helmer, also known as Jeff Jones, also known as Mr. Diamond, also known as
Dennis Dimon

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:14-cr-00257-DSD-1)

MANDATE

In accordance with the judgment of 03/21/2022, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

April 18, 2022

Clerk, U.S. Court of Appeals, Eighth Circuit

/s/ Michael E. Gans

Legal mail
Rec: May 2nd 2022
14:18 hrs
5/2/22

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

No: 21-3215

United States of America

Plaintiff - Appellee

v.

Dennis Charles Helmer, Jeff Jones, Mr. Diamond, Dennis Dimon

Defendant - Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:14-cr-00257-DSD-1)

JUDGMENT

Before LOKEN, ERICKSON, and GRASZ, Circuit Judges.

The district court's order denying compassionate release is summarily affirmed. See Eighth Circuit Rule 47A(a).

October 07, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX:

B

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 14-257 (DSD)

United States of America,

Plaintiff,

v.

ORDER

Dennis Charles Helmer,

Defendant.

This matter is before the court upon defendant Dennis Charles Helmer's latest pro se motion for compassionate release under 18 U.S.C. § 3582. Based on a review of the file, record, and proceedings herein, and for the following reasons, the motion is denied.

The background of this action is fully set forth in the court's previous orders denying Helmer's requests for compassionate release and will not be repeated here. Helmer now again moves for release, arguing that his long COVID symptoms remain and require his release. He has provided no new medical documentation supporting his motion. For the reasons set forth in the court's previous orders, his current motion must also be denied. In short, he has not established that extraordinary and compelling reasons warrant his release or that the 18 U.S.C. § 3553(a) factors support release.

Accordingly, **IT IS HEREBY ORDERED** that the motion [ECF No. 148] under §§ 3582(c)(1)(A) is denied.

Dated: March 3, 2022

s/David S. Doty
David S. Doty, Judge
United States District Court

APPENDIX:

C

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

No: 22-1548

United States of America

Appellee

v.

Dennis Charles Helmer, also known as Jeff Jones, also known as Mr. Diamond, also known as
Dennis Dimon

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:14-cr-00257-DSD-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

April 11, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX:

D

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 14-257 (DSD/SER)

United States of America,

Plaintiff,

v.

ORDER

Dennis Charles Helmer,

Defendant.

This matter is before the court upon defendant Dennis Charles Helmer's pro se motions to reconsider the court's denial of his motion for compassionate release under 18 U.S.C. § 3582(c) and to supplement his motion for reconsideration. Based on a review of the file, record, and proceedings herein, and for the following reasons, the motion to supplement is granted and the motion to reconsider is denied.

Helmer was sentenced in 2015 and is currently serving a 150-month term of imprisonment after pleading guilty to one count of mail fraud relating to an extensive fraud scheme in which he stole over \$1.3 million from a number of elderly victims. In May 2020, Helmer moved for compassionate release under § 3582, arguing that his health issues combined with the threat the COVID-19 pandemic poses to him constitute extraordinary and compelling reasons warranting relief. See ECF Nos. 106, 114. At that time, Helmer was unable to provide medical records corroborating a number of

his asserted health issues. See id. The court denied Helmer's motion, determining that he had not established the extraordinary and compelling reasons warranting relief under § 3582, and that such relief was not appropriate in light of the § 3553(a) sentencing factors. See ECF No. 116. Helmer now moves the court to reconsider that denial and has stated that he is trying to obtain medical records in support of his argument.

The country's, as well as this court's, understanding of the risks posed by the COVID-19 pandemic has evolved since Helmer first moved for relief. Although the court was not convinced at the time of his initial filing that his health issues created a risk of severe illness should he contract COVID-19, it now reconsiders its stance. Based on the most recent guidance from the Centers for Disease Control and Prevention, the court determines that Helmer's health issues, most notably his obesity and long history of smoking, combined with the threat of the COVID-19 pandemic, would, in theory, constitute the extraordinary and compelling reasons required to grant relief under § 3582(c)(1)(A).¹ See U.S.S.G. § 1B1.13, cmt. n.1(A)(ii); see also People with Certain Medical Conditions, CDC, <https://www.cdc.gov/coronavirus/2019-novel-coronavirus/information-for-the-public/people-with-certain-medical-conditions/>

¹ In the event Helmer is able to obtain medical records supporting his claim that he suffers from COPD, such evidence would only bolster the court's determination.

ncov/need-extra-precautions/people-with-medical-conditions.html
(last updated Dec. 1, 2020).

As explained in the court's previous order, however, "[t]o merit such compassionate release, [a defendant] must show more than a mere speculation of the possibility of contracting the virus." United States v. Fry, No. 11-cr-141(4), 2020 WL 1923218, at *1 (D. Minn. Apr. 21, 2020). Although thirty-seven staff at Federal Correctional Institution (FCI) Coleman Medium, where Helmer is currently incarcerated, are currently positive for COVID-19, there are no inmates currently infected with the disease. See COVID-19 Coronavirus: COVID-19 Cases, Federal Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last updated Dec. 4, 2020). It appears that the Bureau of Prisons (BOP) is, at least currently, able to control the spread of COVID-19 among the inmate population at FCI Coleman Medium.

Further, after reviewing Helmer's most recent filings, in addition to all of his evidence in support of his initial motion, the court determines that granting compassionate release at this point in time would be inconsistent with the § 3553(a) factors and the Sentencing Commission policy statements. As of September 2020, Helmer has served approximately forty-nine percent of his full term and fifty-seven percent of his statutory term. Given the serious nature of Helmer's offense and the damage caused to his victims, the court finds that a reduction in sentence at this time

would not reflect the nature and circumstances of the offense, the need to provide adequate deterrence, the need to provide just punishment, and the need to reflect the seriousness of the offense. See 18 U.S.C. § 3553(a). And despite his extensive and commendable efforts at rehabilitation, the BOP currently rates Helmer as a medium risk f ^{00257-L} ~~cidivism~~, which would make his release at this time incons ^{00257-L} with the Sentencing Commission policy statements. See ECF No. 114 Exs. F3, M, N, O; U.S.S.G. § 1B1.13(2).

Accordingly, **IT IS HEREBY ORDERED** that:

1. The motion for reconsideration [ECF No. 117] is denied; and
2. The motion to supplement [ECF No. 118] is granted.

Dated: December 8, 2020

s/David S. Doty
David S. Doty, Judge
United States District Court