

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONALD BROCKENBAUGH,

Defendant.

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Crim. No. 11-50-LPS

ORDER

At Wilmington this **13th** day of **November 2020**, having reviewed Defendant Ronald Brockenbaugh's Motion for Compassionate Release (D.I. 52), the government's response (D.I. 58), and Brockenbaugh's letter to the Court in reply (D.I. 59);

IT IS HEREBY ORDERED that Brockenbaugh's motion is DENIED WITHOUT PREJUDICE to renew, should he believe in good faith he can meet the applicable legal standards, as set out below.

A compassionate release motion by a sentenced defendant requires that defendant "(1) to exhaust administrative remedies, (2) to show extraordinary and compelling circumstances, (3) to show an absence of dangerousness, and (4) to show that the section 3553(a) factors support a reduced sentence." *United States v. Vurgich*, 2020 WL 4335783, at *3 (D. Del. July 28, 2020) (internal citation omitted). Here, the government concedes that Brockenbaugh has exhausted his administrative remedies and that his medical conditions "establish the existence of extraordinary and compelling reasons." (D.I. 58 at 6; *see also id.* at 1) Thus, Brockenbaugh has met his burden on the first two criteria. His motion, however, fails at the third step.


Based on the record presently before it, the Court finds that Brockenbaugh would pose a

danger to the community if released. His criminal history is lengthy and predominated by violent crimes. In 1986, he was convicted in the United States District Court for the Southern District of Florida of bank robbery and attempted bank robbery. (D.I. 58 at 3) One year later, he was convicted in Florida state court on additional robbery charges. (*Id.*) Nine years after that, Brockenbaugh was sentenced on state battery charges. (*Id.*) Fourteen years passed and then he pled guilty in this Court to eight armed robberies of stores throughout Delaware and Connecticut. (*Id.*) As the Court noted at sentencing, “the very serious dangerous series of crimes” that Brockenbaugh committed created “true victims who were feeling that their lives were threatened, which is a horrible, horrible thing to have done.” (Feb. 29, 2012 sentencing transcript (D.I. 44) (“Tr.”) at 34) The Court sentenced Brockenbaugh to 180 months of incarceration, of which he has now served approximately 63%. (*See* D.I. 52 (over 60% served as of August 2020))

In his reply letter, Brockenbaugh states that he “now ha[s] something [he] did not have before. Knowledge of addiction, and no more excuses.” (D.I. 59) He begins to outline a proposed release plan, identifying a location at which (and an individual with whom) he proposes to live, and suggests he would like to return to work as a truck driver. (*See* D.I. 52 at page 2 of 5) He contends that he is not the same person he was in 2010 and early 2011, nearly 10 years ago, when he committed the string of armed robberies that led to the sentence he is currently serving. (D.I. 59) As the Court said at sentencing, the Court “hope[s] that you will have another chance to be a responsible citizen and a positive role model and make something of your life when you are released. I know everyone hopes that for you and for your family.” (Tr. at 35)

On the record before the Court, Brockenbaugh has not shown an absence of dangerousness were he to be released. But the Court is denying his motion without prejudice

because it may be possible for him to meet his burden on this point through additional evidence and argument. If he believes in good faith he can do so, he may pursue compassionate relief again. If he is able to satisfy his burden on step (3), he will also have to further demonstrate at step (4) that the section 3553(a) factors, as a whole, support reducing his sentence.¹


HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE

¹ The Court notes that the sentence it imposed, 180 months, was a sentence jointly proposed by the parties, who executed a plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) (“[S]uch recommendation or request binds the court once the court accepts the plea agreement.”). (D.I. 31 ¶ 1) While Brockenbaugh may be able to show, years later, that the section 3553(a) factors no longer support the sentence he agreed to at the time of sentencing, this is an issue not adequately or persuasively addressed in the papers now before the Court.