

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

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Crim. No. 18-17-LPS
	:	Crim. No. 10-102-LPS
TIMOTHY KEYES,	:	
	:	
Defendant.	:	
	:	

ORDER

At Wilmington this **29th** day of **December, 2021**, having reviewed Defendant’s Motion to Stay Execution of Sentence (D.I. 113)¹ (“Motion”), as well as the related filings (*see* D.I. 113-1, 116, 117),

IT IS HEREBY ORDERED that:

1. Defendant’s Motion is **DENIED WITHOUT PREJUDICE** to renew. Based on the filings to date, the Court is not persuaded that Defendant has met his burden for obtaining a stay pending appellate review. *See generally* 18 U.S.C. § 3143(b)(1). In particular, the Court agrees with the government that Defendant has not shown that his pending appeal “raises a substantial question of law or fact likely to result in . . . reversal, . . . an order for a new trial, . . . a sentence that does not include a term of imprisonment, or . . . a reduced sentence to a term of imprisonment less than the total time already served plus the expected duration of the appeal process.” *Id.*² Nevertheless, for reasons including Defendant’s evolving health situation and the

¹ All references to the docket index (D.I.) are to Criminal Action No. 18-17.

² As the government writes:

Here, the defendant’s asserted ‘substantial questions’ are ‘issues

fact that the Court is modifying his reporting date, the Court is willing to consider a renewed motion if it timely filed after the status teleconference ordered by the instant order.

2. The record indicates that Defendant was only recently released from the hospital. (*See, e.g.*, D.I. 117) The Court further understands, from the record and from contact with the United States Probation Office, that he is scheduled for follow-up treatment in February.

3. Defendant is currently scheduled to begin the remainder of the term of incarceration to which he has been sentenced on January 3, 2022. The government's position is that "to the extent that the defendant's medical conditions prevent him from reporting on January 3," "the government does not oppose" the Court "chang[ing] the self-reporting date." (D.I. 116 at 1)

4. The Court understands that the Defendant will be designated to a Federal Medical Center. The Court continues to believe that the Bureau of Prisons will be able to treat Defendant's medical conditions, even recognizing their seriousness. Nevertheless, given the government's lack of opposition, Defendant's recent hospitalization, and the upcoming follow-up treatment, the Court will exercise its discretion to modify Defendant's self-reporting date.

with respect to his motion to withdraw[] his guilty plea' and whether his sentence was 'excessive.' These are not substantial questions. The Court already considered the defendant's arguments about withdrawing his plea and found them to lack merit.

[Additionally,] the defendant was sentenced to 42 months incarceration by the Court. That sentence represented a significant variance from the sentencing guidelines range of 70-87 months, particularly given that the guidelines for an accompanying violation of supervised release constituted an additional 24-30 months of possibly consecutive time.

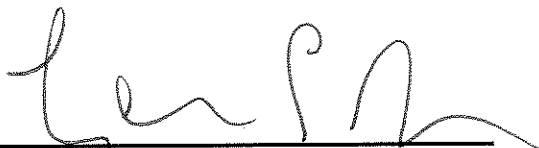
(D.I. 116 at 4, 3)

Accordingly, **IT IS FURTHER ORDERED** that Defendant shall self-report on **Wednesday, March 2, 2022**.

Finally, **IT IS FURTHER ORDERED** that:

A. The parties shall meet and confer and the government, on behalf of both parties, shall file a joint status report on **February 9, 2022**. In the report, the parties shall update the Court on Defendant's health situation and whether the parties anticipate any further motion practice in this matter.

B. The Court will hold a status teleconference with the parties on **February 11, 2022 at 8:45 a.m.** The government shall make the arrangements for the call.



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE