
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

IN RE: Motions for Compassionate
Release Under Section 603(b) of the
First Step Act of 2018

GENERAL ORDER
No. 20-019

On December 21, 2018, the President signed into law the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act, Pub. L. 115-391, 132 Stat. 5194 (2018) (“the First Step Act” or the “the Act”). Section 603(b) of the First Step Act reforms 18 U.S.C. § 3582(c)(1)(A) and allows a defendant to directly request compassionate release from a federal court. In particular, a defendant may file a motion in federal court “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons 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.” 18 U.S.C. § 3582(c)(1)(A)(i).

Appointment of Counsel. Pursuant to the Criminal Justice Act, 18 U.S.C. §§ 3006A(a)(1) and (c), the Office of the Federal Public Defender for the District of Utah (FPD) is hereby appointed to represent any defendant convicted in this District, who was previously determined to have been entitled to appointment of counsel—or who is now indigent—to decide whether the defendant is eligible to petition the Court for compassionate release under Section 603(b) of the First Step Act of 2018, 18 U.S.C. §§ 3582(c) and (d), and, where appropriate, to file a motion for compassionate release.

If the FPD has a prohibitive conflict or other good cause supports appointment of outside counsel, where the FPD determines that the motion would not be frivolous, the FPD will file a motion requesting that CJA counsel be appointed according the regular

procedures of the District of Utah for the appointment of counsel.

In the case of a defendant who was previously represented by a member of the Criminal Justice Act Panel, and where the CJA counsel expresses a willingness to represent the defendant in pursuing compassionate release, CJA counsel is hereby appointed under this Order to determine whether the defendant is eligible to petition the Court for compassionate release under Section 603(b) of the First Step Act of 2018, 18 U.S.C. §§ 3582(c) and (d), and, where appropriate, to file a motion for compassionate release.

Clerk's Office to Notify FDP of Pro Se Motions. The Clerk's Office will promptly notify the FPD of all pending and newly filed *pro se* motions seeking compassionate release.

Financial Affidavit. Any defendant who was not previously represented by the FPD or CJA counsel must complete a financial affidavit. Because of the current pandemic, defense counsel may sign the affidavit on behalf of the defendant, after receiving the defendant's consent, and file the financial affidavit electronically prior to filing a motion for compassionate release.

Response to Motion. Unless the court orders otherwise, the United States is directed to respond to a motion for compassionate release within thirty days of the FPD filing the motion (or supplementing a *pro se* motion). If the court has already established deadlines pertaining to existing motions, those deadlines are not modified by this Order.

Duties of the United States Probation Office. For purposes of determining eligibility and preparing compassionate release motions, the Court directs the United States Probation Office for the District of Utah to disclose Presentence Investigation Reports, Judgments in a Criminal Case, and Statements of Reasons, if requested by the

Federal Public Defender's Office for the District of Utah, CJA counsel, privately retained counsel, and the United States Attorney's Office for the District of Utah.

In addition, unless otherwise ordered by the court, the United States Probation Office is directed to prepare a report within fourteen calendar days of the FPD filing a motion (or a supplement to an existing pro se motion). The report will be filed as a restricted document in CM/ECF.

Case Management. All requests for compassionate release shall be filed in the original criminal case. If the presiding judge in the original proceeding is no longer serving as a judge in this District, the case shall be reassigned on a random basis pursuant to DUCrimR 57-2.

SO ORDERED this 25th day of June, 2020.

THE COURT:



ROBERT J. SHELBY
CHIEF UNITED STATES DISTRICT JUDGE