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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <i>RJM</i>	DEPUTY

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 2 Reg. No: 97930-308
 3 Taft Correctional Institution
 4 P.O. Box 7001
 5 Taft, CA 93268
 6 Pro Se

UNITED STATES DISTRICT COURT
 TUSCON, ARIZONA

JOSE FRANCISCO GARCIA-
 CORONADO Movant,

v.

UNITED STATES OF AMERICA,
 Respondent.

Case No: 4:13-CR-01297-DCB-CRP

§ 3582(c)(1)(A) EMERGENCY REQUEST FOR
 MODIFICATION OF IMPOSED TERM OF
 IMPRISONMENT OF RELEASE TO HOME
 CONFINEMENT OR SUPERVISED RELEASE

IN PRO SE

HIGH RISK OF DEATH OR SERIOUS ILLNESS DUE TO COVID-19
 TIME IS OF THE ESSENCE

Movant now comes before this Honorable Court in which I was sentenced with an urgent pleading, potentially for his life, due to "extraordinary and compelling reasons" (18 USCS § 3582(c)(1)(A)(i)) "unforeseen at the time of sentencing" (USSG § 1B1.13 ¶ 2) which have placed me in circumstances which pose a high risk of death or serious illness from COVID-19 and respectfully request the Honorable Court grant me immediate release to my home residence under Supervised Release through the United States Probation Office or to Home Confinement for the remainder of my sentence as allowed per § 3582(c) and USSG §1B1.13, as well as allowed under the emergency authority granted to the United States Attorney General and the Director of the Bureau of Prisons (BOP) by the CARES Act of 2020 (see CARES Act @ pg. 634), and as directed by the Attorney General in his Memoranda of April 3, 2020 and March 26, 2020.

Under "normal" circumstances the Court has the authority and jurisdiction to grant my request under § 3582(c), under this

1 National Emergency as declared by the President and the Attorney
2 General's "finding that emergency conditions are materially affect-
3 ing the functioning of the Bureau of Prisons" (AG Memorandum titled
4 Increasing Use of Home Confinement At Institutions Most Affected By
5 COVID-19, (issued April 3, 2020, **EXHIBIT 3**), the Court has even great-
6 er standing under the 8th Amendment of the United States Constitu-
7 tion. See Estelle v. Gamble, 429 US 97, 97 S. CT 285, 50 L Ed 2d 251
8 (1976).

9 This Motion should be granted due to the "extraordinary and
10 compelling reasons" confronting the federal prison system by the
11 pandemic of COVID-19 and the fact that Movant is not a danger to
12 the community, as evidenced by Movant's designation by the BOP as
13 a Minimum Security Inmate, age, and minimal recidivism risk as
14 scored by BOP's PATTERN System as required by the First Step Act
15 (FSA); and further because respect for the law and general deter-
16 rence, other notable § 3553(a) factors, would not be undermined by
17 converting the remainder of my sentence to supervised release or
18 home confinement given the cataclysmic events of the current pan-
19 demic.

20 ARGUMENT

21 This Court never intended to sentence me to a death sentence.
22 Clearly, the pervasive and imminent risk of death from the COVID-19
23 pandemic could not have been foreseen by the BOP nor the Court when
24 sentencing me. Given my age and medical conditions, I am extremely
25 concerned that when (and not if) the COVID-19 virus spreads through
26 the institution that I am incarcerated at the time of this filing,
27 Satellite Prison Camp of Taft Correctional Institution (Taft), or
28 the prison camp at which I am currently designated and facing

1 imminent transfer, probably in less than a week or 10 days from this
2 filing, and any hold-over facility in which I am housed during tran-
3 sit, it will be a death sentence for me.

4 This unparalleled health crisis in our country and its deadly
5 arrival in our prisons present "extraordinary and compelling rea-
6 sons" to grant my Motion. As explained below, the federal prison
7 system is already overcrowded—beyond recommended capacity—and the
8 conditions (unique to my situation at Taft and through transit) make
9 it impossible for me to self-care and prevent my infection when the
10 virus finds its way to me at whatever facility(es) I may be at over
11 the remainder of this pandemic, or when I am exposed to COVID-19
12 during transit in holding cells, buses, planes, and arrival at other
13 institutions. In other words, the virus will find me or I will find
14 it. "Social distancing" is not an option for me and all other fed-
15 eral inmates, and as discussed below, even less of an option based
16 on the doubling of density of inmates in my living quarters and con-
17 ditions at Taft on March 30, 2020. Prisons are more dangerous than
18 nursing homes in regards to risk of dying from COVID-19 and it's
19 uncontrollable spread. The New York Times recently explained why
20 jails are a much more dangerous place to be than even a cruise ship.
21 See "An Epicenter of the Pandemic Will be Jails and Prisons, If In-
22 action Continues," The New York Times (March 16, 2020), available
23 at [https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.](https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.html)
24 html.

25 As to the § 3553(a) factors, I am not a danger to the commun-
26 ity. Especially in view of my non-violent offense and minimal risk
27 of recidivism per PATTERN and BOP's classification of me posing NO
28 RISK TO THE PUBLIC as a minimum security inmate with OUT / COMMUN-

1 ITY Custody. I simply wish to survive my term of incarceration and
 2 make it home to my beloved family. I pose no harm to others and
 3 can continue to be confined safely at home until the end of my
 4 original term of imprisonment.

5 The humane and compassionate thing to do is to convert my sen-
 6 tence to home confinement or supervised release for the remainder
 7 of my term. At my age and medical condition, and the fact that as
 8 a male, I am 33% more likely to be hospitalized due to COVID-19 and
 9 100% more likely to die (as reported by the Wall Street Journal from
 10 data compiled from Korea Centers for Disease Control and Prevention;
 11 Spain's Ministry of Health; U.S. CDC; Istituto Superiore di Sanita,
 12 Italy. See WSJ, Friday, April 3, 2020) when COVID-19 finds me or I
 13 find it, I will not have much of a chance to survive.

14 I. THIS COURT HAS AUTHORITY TO RESENTENCE ME UNDER 18 U.S.C. §
 15 § 3582(c)(1)(A)(i) FOR THE "EXTRAORDINARY AND COMPELLING
 16 REASONS" CREATED BY THE COVID-19 PANDEMIC AND THE PRISON
 CONDITIONS WHICH GREATLY INCREASE THE LIKELIHOOD OF DEATH

17 With the changes made to the compassionate release statute by
 18 the FSA, courts need not await a motion from the Director of BOP to
 19 resentence prisoners under 18 U.S.C. § 3582(c)(1)(A)(i) for "extra-
 20 ordinary and compelling reasons" that exist. Importantly, the reasons
 21 that can justify resentencing need not involve only terminal illness
 or urgent dependent care for minor children.

22 While § 3582(c) requires guidance from USSG § 1B1.13 and its
 23 application notes, United States v. Beck holds that application note
 24 1(D), which promulgates Other Reasons to be considered and determin-
 25 ed by the Director of the Bureau of Prisons "in the defendant's case
 26 [of] extraordinary and compelling reason" (USSG 1B1.13, app.n.1(D),
 27 is "inconsistent with the First Step Act, which was enacted to fur-
 28 ther increase the use of compassionate release and which explicitly

allows courts to grant such motions even when BOP finds they are not appropriate," and courts thus may "consider whether a sentence reduction is warranted for extraordinary and compelling reasons other than those specifically identified in the application notes to the old policy statement." United States v. Beck, No. 1:13-CR-186-6, 2019 WL 2716505, at *6 (M.D.N.C. June 28, 2019). See also United States v. Cantu, No. 1:05-CR-458-1, 2019 WL 2498923; United States v. Cantu-Rivera, No. CR H-89-204, 2019 WL 2578272; United States v. Fox, No. 2:14-CR-03-DBH, 2019 WL 3046086, at *3 (D. Me. July 11, 2019), which hold § 1B1.13, application note 1(D) "no longer fits with the statute and thus does not comply with the congressional mandate that the policy statement must provide guidance on the appropriate use of sentence-modification provisions under § 3582" (Cantu at *4 (S.D. Tex. June 17, 2019) quoting Fox at *2 n.1)), "[b]ecause the current version of the Guideline policy statement conflicts with the First Step Act, the newly-enacted statutory provisions must be given effect" (Beck at *6).

But yet, even though the FSA has made § 1B1.13 not applicable, in this instant Motion and circumstance the Attorney General and Director of BOP through enactment of emergency authority granted to the Attorney General under the CARES Act have declared the COVID-19 pandemic and national emergency to be an "extraordinary and compelling reason" as defined under § 1B1.13, application note 1(D). See **EXHIBITS 2, 3, & 4: Memoranda from the Attorney General and BOP.**

Section 603 of the FSA changed the process by which § 3582(c)(1)(A) compassionate release occurs: instead of depending upon the BOP Director to determine an extraordinary circumstance and move for release, a court can now resentence "upon motion of the defen-

dant," after the inmate exhausted administrative remedies with the BOP, or after 30 days from the receipt of the inmate's request for compassionate release with the warden of the defendant's facility, whichever comes earlier. 18 U.S.C. § 3582(c)(1)(A). Thus, under the FSA, a court may now consider defendant's own motion to be resentenced, without waiting for it to be made by the BOP, especially when waiting upon the BOP could lead to my death or serious illness due to COVID-19.

The Court is now authorized to consider my Motion, even if the BOP opposes, and order resentencing if the Court finds that "extraordinary and compelling reasons" warrant a reduction.

II. THE COURT CAN WAIVE THE 30-DAY REQUIREMENT FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES UNDER 18 U.S.C. § 3582(c)(1)(A) BECAUSE OF THE URGENT RISK OF FATAL INFECTION

I filed my petition with the Warden and Unit Manager (see INMATE REQUEST TO STAFF, Cop-Out, **EXHIBIT 1**) on April 4, 2020 via Taft's institutional legal mail policy. On April 6, 2020, due to over 50 other inmates filing similar Cop-Out's requesting transfer to home confinement or a motion to the court to be filed by the BOP for compassionate release April 3 - 5 of 2020, Taft issued a Memorandum dated April 6, 2020 addressed to the "Camp Inmate Population" from "D. Patrick, Executive Assistant/Grievance Coordinator" regarding: "Response to Influx of Inmate Requests to Staff," in which it states:

This is in response to the multiple Requests to Staff (Cop-outs) which have been forwarded to my office for response. Due to the number of Requests to Staff received, individual responses will not be provided, nor will any future requests regarding this same matter be addressed.

Staff has not been provided guidance by the Bureau of Prisons (BOP) regarding the Attorney General's Memorandums involving any revised procedures for an inmate's placement

1 on Home Confinement. Therefore current procedures will re-
2 main in place.

3 Furthermore, due to the current decision by the Bureau of
4 Prisons to close the facility and the subsequent transfer
of all inmates, each of you will have to make this request
at your new facility.

5 Taft Memorandum from Management and Training Corporation (MTC), the
6 private prison contractor under contract to manage Taft and in which
7 this contract expires April 30, 2020 and the BOP has announced (in
8 the middle of a deadly pandemic and declared national emergency and
9 declared emergency within the BOP) its intention to close Taft
10 (Taft is BOP owned and managed under private contract) to complete
11 repairs on a building that has been closed due to safety, from pre-
12 vious earthquake damage, for over three years and not in use and not
13 posing any risk of harm to inmates or staff. **EXHIBIT 5**, Taft April
14 6, 2020 Memorandum.

15 In this emergency pandemic case involving a viral infection
16 (COVID-19 / CORONA VIRUS) that at the moment of this filing is
17 spreading parabolically, as is the risk of my own personal death or
18 permanent injury, and under the "extraordinary and compelling" cir-
19 cumstances that I am facing, along with approximately 200 other in-
20 mates located at Taft's Satellite Camp in which we are incarcerated,
21 I am at an even greater risk than the "average" inmate at other BOP
22 facilities—at which many inmates have died from COVID-19, and doz-
23 ens are hospitalized, with hundreds more (likely to be in the thou-
24 sands) to die due to the nature of BOP living conditions, I ask the
25 Court to accept my request to the Warden (Exhibit 1) and the subse-
26 quent response to the general inmate population of the Camp as exh-
27 austion of my administrative remedies. My imminent transfer and the
28 clear and present danger posed by COVID-19 NOW and in transit and

1 at my next facility(es), make it impossible to file a BP-10 request
2 with the Privatization Management Branch (PMB), which is the BOP's
3 Regional Office, located in Washington, D.C., for all federal pri-
4 sons managed under private contract, nor would I be able to file a
5 BP-11 with the BOP Central Office in Washington, D.C. after waiting
6 upon a response by the PMB.

7 It is my experience, and the experience of every inmate at Taft
8 who have had to file an administrative appeal to the PMB and the
9 Central Office, that the process would take up to 4 months minimum
10 (waiting 60 days for the PMB to NOT respond to be considered a denial
11 nial, and the additional 60 days for the Central Office to NOT re-
12 spond, prior to being able to claim exhaustion and file a motion
13 with the Court. The normal time period to complete the BP-10 and
14 BP-11 process via the PMB and Central Office is generally 8-12
15 months. Nor does this allow for the fact that once I am transferred
16 my administrative filing would be moot and the process would have to
17 begin again from my new institution / camp. Thus, with the Warden's
18 refusal to respond individually to my request and his blanket denial
19 as contained in Exhibit 5, if I wait for the administrative remedy
20 process to play out, I will no longer be located at Taft due to the
21 imminent transfer of all inmates (Exhibit 5), and/or I may have al-
22 ready died due to COVID-19 or on a ventilator in ICU, or hospital-
23 ized with serious illness due to the virus, and thus awaiting my
24 fate. Therefore, I request the Court waive the administrative
25 remedy exhaustion requirement and 30-day waiting period if it
26 does not accept the Taft Memo (id) as exhaustion.

27 Under the declaration of a national emergency and the Attorney
28 General's declaration of "emergency conditions ... materially affect-

1 the functioning of the" BOP (EXHIBIT 3), and the Doctrine of Clear
2 and Present Danger (my life is at great risk), the Court can, and
3 should, waive the 30-day waiting period and exhaustion requirement.
4 See Ye v. Holder, 624 F. Supp. 2 121 (9th Cir. 2009); see also
5 McGuckin v. Smith, 974 F.2d 1050 (9th Cir. 1992) (which also ad-
6 dresses negligence, insidious risks, pervasive risks, deadly in-
7 fection, etc. with a class or group of prisoners, and therefore
8 allowing constraint of time limits to be waived).

9 Clearly, the pervasive and imminent risk of death from the
10 COVID-19 pandemic could not have been foreseen by the Court when
11 sentencing me, nor by the BOP. However, the BOP has known for months
12 of the impending COVID-19 crisis, creating a further reason to ex-
13 cuse any failure to exhaust all administrative remedies. The BOP
14 has had ample opportunity to adequately prepare Taft and modify
15 its completely illogical decision to close Taft and transfer 1100
16 inmates (900 at the main facility and 200 at the camp) at the
17 height of the pandemic, and against the directives of the President
18 and Congress. See STATEMENT IN SUPPORT, at 4; and in its entirety
19 for discussion of Taft's failure to prepare while knowing for months
20 of the impending COVID-19 crisis and the risks imposed and Taft's
21 continued operations over the past two weeks—not to mitigate the
22 risk posed by the virus, but to facilitate the closure of Taft and
23 thus placing the Camp inmates, and me, in a high density situation.

24 The BOP and Taft's failure to prepare, which would have obvi-
25 ated the need for my emergency compassionate release Motion, when
26 they were on notice of the potential dangers to inmates like me, I
27 should not be required to wait while the BOP takes additional time
28 addressing my administrative request. See United v. Basciano, 369 F

1 Supp. 2d at 349 (... as the BOP had ample opportunity to respond.
 2 ...the court found that further administrative process in this case
 3 would be a formality that would risk exposing Basciano to irrepar-
 4 able harm). I should not be forced to bear the brunt of the facil-
 5 ity's and BOP's failure to adequately prepare for COVID-19. In these
 6 extraordinary circumstances, the Court should waive the administra-
 7 tive exhaustion requirement in § 3582.

8 **III. THE COVID-19 OUTBREAK PRESENTS A COMPELLING AND EXTRAORDINARY**
 9 **CIRCUMSTANCE THAT WARRANTS COMPASSIONATE RELEASE FOR MOVANT**
 10 **DUE TO HIGH RISK OF FATALITY**

11 On March 11, 2020, the World Health Organization (WHO) offic-
 12 ially classified the new strain of coronavirus, COVID-19, as a
 13 pandemic.¹ As of 6:55 p.m. April 6, 2020, COVID-19 has infected at
 14 least 1,346,299 worldwide, leading to at least 74,679 deaths.² In
 15 the United States, at least 366,153 have been infected, leading to
 16 at least 10,831 deaths.³ These numbers almost certainly underrepre-
 17 sent the true scope of the crisis; test kits in the United States
 18 have been inadequate, and nearly non-existent in the BOP, with zero
 19 test kits and testing taking place at Taft amongst inmates or staff,
 20 to meet demand.

21 On March 13, 2020, the White House declared a national emer-
 22 gency. Since then the White House has issued guidance recommending
 23 that, through April 30, 2020 (and sure to be extended), gatherings
 24 of ten persons or more be cancelled or postponed. And nearly every

25 ¹"WHO Characterizes COVID-19 as a Pandemic," World Health Organiza-
 26 tion (March 11, 2020), available at: <https://bit.ly/2W8dwpS>.

27 ²Live Data From Johns Hopkins University Center For System
 28 Science and Engineering, (April 6, 2020 at 6:55 p.m. PDT), avail-
 29 ble at: <https://www.cnn.com/health>

30 ³Id.

1 state, including California where I am currently incarcerated, has,
 2 through its Governor, has ordered 100 percent of all non-essential
 3 workers to remain home, effectively shuttering the entire economy.
 4 These drastic measures followed the issuance of a report by British
 5 epidemiologists, concluding from emerging data that 2.2 million
 6 Americans could die without drastic intervention to slow the global
 7 spread of the deadly disease.⁴

8 The CDC has also issued guidance related to the deadly effects
 9 of COVID-19 on high-risk individuals. The CDC identified the popu-
 10 lation most at risk of death from the disease to include me based
 11 on age and medical conditions and living in close proximity to
 12 others like nursing homes, prisons, etc. For the high-risk individ-
 13 uals, such as myself, the CDC warned to take immediate preventative
 14 actions, including avoiding crowded areas and staying at home as
 15 much as possible.

16 **IV. THE CONDITIONS OF BOP INCARCERATION FOSTER THE SPREAD OF**
 17 **COVID-19, THE CLOSURE OF TAFT FOSTERS THE SPREAD OF COVID-19,**
 18 **AND THE BOP AND TAFT PROVIDE NO ABILITY TO PROTECT ME FROM**
 19 **COVID-19, RENDERING ME AS HIGHLY SUSCEPTIBLE TO AN UNREASONABLE**
 20 **RISK OF DEATH AND AN INABILITY TO TAKE PREVENTATIVE MEASURES**
 21 **OR SELF-CARE**

22 Conditions of confinement at Taft create an optimal environment
 23 for the transmission of contagious disease.⁵ People who work in
 24 the facility leave and return daily; people deliver supplies to the
 25 facility (all through the Camp warehouses and delivery docks) daily;
 26 inmates were having social, legal and medical visits regularly after
 27 the initial spread of the virus prior to the BOP's decision to stop

28 ⁵Joseph A. Bick, "Infection Control in Jails and Prisons," Clinical Infectious Diseases 45(8): 1047-1055 (2007), <https://doi.org/10.1086/521910>

⁴Fink, "White House Takes New Line After Dire Report on Death Toll," New York Times

1 visits for 30 days (now extended indefinitely) on March 13, 2020.
2 Public health experts are unanimous in their opinion that incarcer-
3 ted individuals "are at special risk of infection, given their liv-
4 ing situations," and "may also be less able to participate in proac-
5 tive measures to keep themselves safe," and "infection control is
6 challenging in these settings."⁶

7 The Attorney general, through the CARES Act, has invoked his
8 authority and recognized the BOP has been, and is, unable to "pre-
9 vent COVID-19 from entering its facilities and infecting [me and
10 all other] inmates." Exhibit 3. In other words, the BOP, and TAFT
11 have NO ABILITY TO PROTECT ME AND MY LIFE.

12 I am powerless to take the preventative self-care measures dir-
13 ected by the CDC for my high-risk group to remain safe from Covid-19
14 infection. I cannot self-quarantine or partake in "social distanc-
15 ing" in my prison facility, here at Taft nor throughout my imminent
16 transit and designated facility, nor during any time of hold-over.
17 I am housed in a community dormitory that beds about 120 inmates
18 with double and triple style cubicles, each housing two to three
19 persons on either side of a central hallway with one common washroom
20 facility, shower facility, toilet area, and common TV rooms. There
21 are also community spaces where inmates and prison staff gather, in-
22 cluding a common room, laundry facilities, barber shop, commissary,
23 medical areas, dining hall, small library and law library and chap-
24 el, as well as tightly packed education classrooms.

25
26 ⁶"Achieving a Fair and Effective COVID-19 Response: An Open Letter
27 to Vice-President Mike Pence, and Other Federal, State, and Local
28 Leaders from Public Health and Legal Experts in the United States"
(March 2, 2020), at <https://bit.ly/2W9V6oS>.

1 These high-density areas are precisely the kind of spaces that
 2 have caused the alarmingly high-spread rates of COVID-19 through-
 3 out prisons, jails, nursing homes, cruise ships, and other high-
 4 density living conditions throughout the United States and the
 5 world. Hand sanitizer, and effective disinfectant recommended by the
 6 CDC to reduce transmission rates, is contraband in jails and prisons
 7 because of its alcohol content. Correctional health experts worry
 8 that no matter what precautions are taken by crowded prisons, these
 9 facilities may (will) become incubators for the COVID-19 disease.

10 During the H1N1 epidemic in 2009, jails and prisons dealt with
 11 high numbers of cases because they could not maintain the level of
 12 separation and sanitation necessary to prevent widespread infection.
 13 Today, with COVID-19 being a super-killer compared to H1N1 with its
 14 unstoppable spread in my enviroment, the BOP and Taft and any place
 15 that I am designated and throughout transit, over-crowding is much
 16 worse as are the conditions during the H1N1 outbreak. Members of
 17 Congress have written to the BOP to urge that efforts be made to
 18 allow immediate release of non-violent, at-risk inmates, to home
 19 confinement. Including the letter of Representatives Jerrold Nadler
 20 and Karen Bass on March 19, 2020 stating: "DOJ and BOP must also do

21 DOJ and BOP must also do all they can to release as many
 22 people as possible who are currently behind bars and at
 23 risk of getting sick. Pursuant to 18 U.S.C. 3582(c)(1)(A),
 24 the Director of the Bureau of Prisons may move the court to
 25 reduce an inmate's term of imprisonment for "extraordinary
 26 and compelling reasons."

27 I remind the court that in my case, I am not behind bars, nor
 28 behind a fence, I am no risk to the public, I am at risk of suc-
 cumbing to this deadly disease in a high-density camp.

 The attached STATEMENT IN SUPPORT lays out the risks and

1 challenges unique to me at this time at Taft, the closure of
2 Taft, and my imminent pending transfer, that places me and the
3 other non-violent, minimum security, out / community custody
4 inmates located within this camp and a profound and greatly in-
5 creased risk to exposure, hospitalization, placed on a venti-
6 lator (that may not be available) in ICU, and dying from COVID-
7 19. My age, circumstances and underlying health issues (see
8 EXHIBIT 1) make me exceptionally vulnerable to COVID-19, com-
9 pelling and extraordinary circumstances exist to support com-
10 passionate release at this unique time in our country's history.
11 There is an urgent need to act now, before the virus spreads and
12 finds me or I find it, it is only a matter of time, not if but
13 when.

14 The COVID-19 virus is highly transmissible, extraoridinar-
15 ly dangerous, and poses a severe threat of death to my high-risk
16 profile. The conditions at Taft and throughout the entire BOP
17 do not allow me to take the self-care measures required by the
18 CDC to protect my safety. These needed conditions that will
19 allow me to properly protect myself and defend myself from this
20 attack do exist at my place of residence in which is prepared
21 and safe, right now, for me to serve the remainder of my sen-
22 tence or supervised release.

23 **V. THE RELEVANT § 3553(a) FACTORS, INCLUDING MY RELEASE PLAN,**
24 **FAVOR RESENTENCING**

25 In this case, a review of the § 3553(a) factors, and my
26 release plan of home confinement (see EXHIBIT 1) for the remain-
27 der of my unserved original term of imprisonment (of which I
28 have served a significant portion), favor granting my release.

1 My offense conduct, while concededly serious, did not in-
2 volve personal violence. My April 4, 2020 request to the Warden
3 (Exhibit 1) addressed the § 3553(a) factors and all of the fac-
4 tors listed by the Attorney General in his Memoranda (EXHIBITS
5 2 & 3). (1) My age and increased vulnerability due to my under-
6 lying medical conditions per the CDC and President's COVID-19
7 Task Force Guidelines and risk assessments place me at a **VERY**
8 **HIGH RISK OF DEATH** (id.); (2) I am classified as **MINIMUM SECUR-**
9 **ITY and OUT / COMMUNITY CUSTODY** and housed in a minimum security
10 camp (no fences, no cells); (3) I have exhibited exemplary con-
11 duct in prison with no violent gang related and no BOP viola-
12 tions; (4) I have a verifiable release / re-entry plan that pre-
13 vents recidivism and maximizes the protection of the public, my
14 family, and myself from contracting COVID-19 at my release resi-
15 dence versus any BOP facility, including Taft; (5) I am eligible
16 to receive Time Credits (per FSA) per PATTERN which confirms I
17 am a non-violent offender; and (6) my recidivism risk per
18 PATTERN is minimal, MINIMUM.

19 The only § 3553(a) factors that might give pause to this
20 Court as disfavoring resentencing (i.e., deference to the
21 seriousness of the offense conduct and due respect for the law)
22 are largely overcome by the unreasonable threat of death due to
23 my current conditions of confinement, and that there are condi-
24 tions of home detention which will still provide a "sufficient
25 but not greater than necessary" sanction of punishment. 18 USC §
26 3553(a).

27 While conceding that my offense conduct was serious and I
28 still have unserved time remaining from my original sentence,

1 the circumstances—since my sentence was initially imposed by
2 this Court—have certainly changed. Not only am I changed man,
3 husband, father, and member of society as a whole, I have taken
4 the this time of incarceration to better myself and truly under-
5 stand what the world, society, and my Creator desire of me.
6 The government cannot dispute the serious physical danger creat-
7 ed by the current pandemic to someone in my circumstances. Nor
8 can the BOP, or Taft, guarantee or provide any sense of con-
9 fidence that this widespread virus will not make its way inside
10 the doors of every federal facility, Taft included and my desi-
11 gnated facility as well. If, and when, the virus makes it way to
12 me in this prison or another, and this is not alarmist hyperbole,
13 it may very well likely kill me. This Court never intended to
14 impose such risk at the time of my original sentencing.

15 I propose that as part of my continued punishment in this
16 case, punishment I admittedly deserved, the Court convert the
17 remaining years of my expected term of imprisonment to home
18 detention as a condition of supervised release. In this way,
19 I continue to face confinement as a measure of due punishment,
20 but without the serious and unavoidable risk to my life and
21 health. Such a period of home confinement will meet § 3553(a)'s
22 purpose to give due respect for the law and to acknowledge the
23 seriousness of the offense.

24 Significantly, courts weighing § 3553(a) factors have gran-
25 ted release to defendants with convictions for serious crimes,
26 some with histories of violence, finding that changed health
27 circumstances, aging defendants, post-offense rehabilitation,
28 and carefully crafted conditions of supervised release amelior-

1 | ate public safety concerns. I am aware that a number of courts
2 | throughout the country, covering all 13 Circuits, have granted
3 | similar motions requesting compassionate release per § 3582(c)
4 | (1)(A)'s "extraordinary and compelling reasons" due to COVID-
5 | 19, with the primary consideration of § 3553(a) factors being
6 | the deadly circumstance the defendant faces by simply being
7 | incarcerated in a minimum security camp and the imminent ex-
8 | posure to COVID-19 and all the risks associated with it.

9 | On April 5, 2020, theintercept.com reported, from BOP
10 | Attorney General and BOP released statistics:

11 | Nationwide, according to Bureau of Prison statistics,
12 | the number of positive cases of coronavirus in federal
13 | jails and prisons exploded by 8,600 percent in the two
14 | weeks since March 20—an increase that's especially
15 | concerning given the vulnerability of the people locked
16 | in conditions that they can't control. Bureau of Prison
17 | estimates, roughly a third of the people incarcerated
18 | in MDC and MCC are at elevated risk of severe illness
19 | by the Centers for Disease Control and Prevention's
20 | standards.

21 | See [https://theintercept.com/2020/04/05/coronavirus-federal-](https://theintercept.com/2020/04/05/coronavirus-federal-prison-mdc-mcc-new-york/)
22 | [prison-mdc-mcc-new-york/](https://theintercept.com/2020/04/05/coronavirus-federal-prison-mdc-mcc-new-york/). The BOP is fully aware of the risks
23 | in which I currently reside. And they are growing at an
24 | unimaginable rate that only the Court has the power to correct.

25 | The § 3553(a) factors that § 3582(c)(1)(A) requires the
26 | Court to consider weigh heavily in favor of release under the
27 | specific circumstances and risk to me via COVID-19. My age and
28 | vulnerability to COVID-19 and increased risk of death (hundreds
percent greater than the average) upon the almost certain con-
traction of COVID-19 without the Court's immediate action due to
my underlying medical risks as reported by the CDC and COVID-19
Task Force to greatly enhance my risk of hospitalization, need

1 for ICU and a ventilator, and death would cause great suffering
2 for my family and the community as a whole. While the factors
3 enumerated by the Attorney General address these § 3553(a) fac-
4 tors, I must point out that because non-violent, minimum secur-
5 ity prisoners from other prisons have been and will futher
6 likely be released to home confinement under the Attorney Gen-
7 eral's directive, granting this Motion will promote the need to
8 prevent unwarranted sentencing disparities.

9 See EXHIBIT 1 (Request to Warden and attached Release Plan)
10 for greater detail and explanation of my associated risks due
11 to age and medical, and factors in which I meet the Attorney
12 General's directive to be moved immediately to home confinement
13 and protect the public generally and specifically in regards to
14 COVID-19. See also EXHIBITS 2, 3, & 4.

15 CONCLUSION

16 For the foregoing reasons, I respectfully request that the
17 Court grant a reduction in my sentence to time served with a
18 period of supervised release, including, if the Court deems
19 necessary, a condition of home confinement to cover the unserv-
20 ed portion of my prison term.

21 Dated: April 7, 2020

22 Respectfully submitted,

23
24 By: 

25 Reg. No: 97930-308
26 Movant, Pro Se

27 By: José García García-Coronado
28 Francisco

1 Name/Movant: JOSE FRANCISCO GARCIA_CORONADO
2 Reg. No: 97930-308
3 Taft Correctional Institution
4 P.O. Box 7001
5 Taft, CA 93268
6 Pro Se

7 UNITED STATES DISTRICT COURT
8 TUCSON, ARIZONA

9 JOSE FRANCISCO GARCIA-
10 CORONADA Movant,

11 v.

12 UNITED STATES OF AMERICA,
13 Respondent.

Case No: 4:13-CR-01297-DCB-CRP

§ 3582(c)(1)(A) EMERGENCY REQUEST FOR
MODIFICATION OF IMPOSED TERM OF
IMPRISONMENT OF RELEASE TO HOME
CONFINEMENT OR SUPERVISED RELEASE
STATEMENT IN SUPPORT

14 *****EMERGENCY FILING FOR IMMEDIATE REVIEW*****
15

16 This brief statement is written in support of that certain MOTION
17 FOR TRANSFER TO HOME CONFINEMENT by Movant hereto attached. This
18 MOTION is filed as a matter of imminent injury or death of an inmate
19 in Federal Custody. A declaration of emergency status due to CORONA
20 VIRUS INFESTATION (COVID-19) has been made at the PRESIDENTIAL LEVEL
21 as well as by the ATTORNEY GENERAL OF THE UNITED STATES. The laws of
22 the nation and the Constitution are well in force and fully applic-
23 able to the current emergency, but the circumstances are dire, and
24 require immediate action due to extreme and EXTRAORDINARY risks that
25 the Courts simply did not, and could not, anticipate. Please govern-
26 ern yourself accordingly.

27 *****
28

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1 In the core case relative to this filing, the protection of
2 inmates against cruel and unusual punishment under the EIGHTH AM-
3 MENDMENT of the U.S.CONSTITUTION is well stated in Estelle v. Gamble
4 (429 US 97, 97 S CT 285, 50 L Ed 2d 251) and applies well to this
5 Motion. In brief, it is the threat of infection by a deadly virus
6 that holds the real and proven ability to cause death and long-term
7 injury to inmates that suffer infection. There are few known illnesses
8 which are proving to be as infection prone and contagious as the
9 CORONA VIRUS /COVID-19. As such, minimum and low-level security in-
10 mates who are non-violent and not prone to recidivism, such as Movant,
11 need the courts protection, as living within all prison populations
12 puts inmates at near certainty for infection within the coming weeks.
13 When HOME CONFINEMENT is available, safe and able to afford a setting
14 where inmates may be released to self-isolate, it is much more likely
15 that they will avoid infection, and avoid infecting others. At Taft
16 Correctional Institution Camp ("TCI"), not one of these men were sen-
17 tenced to a manner of incarceration where such risks and injury were
18 all but certain.

19 In the case of TCI's elderly inmates a "sentence of death" or
20 the "tortuous experience of suffering through this Corona Virus"
21 amounts to cruel and unusual punishment. While the Bureau of Prisons
22 ("BOP") defines "elderly inmates" as 60 years of age or older, CDC
23 statistics as of April 1, 2020 show the death rate triples or quad-
24 ruples for all victims 50 years and older.

25 Movant has been housed at TCI for well over six months. On Oct-
26 ober 1, 2019, the BOP notified Management and Training Corporation
27 ("MTC"), the private operator of the facility, that MTC's contract would
28 be terminated, and TCI closed, effective on December 31, 2019.

1 The contract was ultimately extended to March 31, 2020 and later
2 to April 30, 2020. Because no new inmates have been received at TCI
3 for nearly seven months combined with what was until March 30th a very
4 low inmate-to-bunk ratio, the facility has avoided the outbreak levels
5 experienced at many other BOP facilities. On March 30th, MTC ordered
6 that all inmates in two of the barracks be consolidated into the two
7 remaining barracks, effectively doubling the concentration of inmates.
8 This move was apparently made to speed up the closure of TCI and to
9 save MTC financial expense. This REVERSE SOCIAL DISTANCING has meant
10 that inmates are now crowded into double and triple occupancy cubicles,
11 forced to violate the Federal Government's own social distancing rec-
12 comendations and of course are limited to non-alcoholic disinfectants.
13 Conditions have deteriorated to the point that, under the present virus
14 control laws of many states, the inmates at TCI would be subject to
15 fines and/or arrest for lack of social distancing.

16 The management of MTC is obviously well aware of the risks these
17 conditions impose as they have been temperature screening their TCI
18 employees for several weeks. The news media has been covering the virus
19 pandemic non-stop, with the population infection, illness rates and
20 actual deaths from the Corom Viris statistics spiraling higher and
21 higher virtual every day. For example, the Wall Street Journal reported
22 on April 3, 2020 a new and potentially deadly conclusion that part-
23 icularly impacts the all-male TCI population, as compared to women:

24 Men across the globe are now considered three times more at risk
25 of dying in a hospital from Covid-19, according to a meta-anal-
26 ysis done by researchers at the University of Miami Miller School
27 of Medicine. Wall Street Journal, "Infection is Killing More Men".
28 //

1 The management of MTC and the BOP have chosen to ignore these
 2 facts by attempting to empty out the population of TCI as quickly as
 3 possible:

4 I find it appalling and irresponsible that the BOP continues this
 5 week to move hundreds of inmates out of TCI to other BOP facil-
 6 ities across the nation. These actions directly contradict guid-
 7 ance via White House Corona Virus Task Force and the Centers for
 8 Disease Control and Prevention, along with the April 1st BOP dir-
 9 ective to limit inmate movement in response to the Corona Virus.
 10 House Minority Leader, Congressman Kevin McCarthy KGET Bakersfield
 11 an NBC affiliate, per station website on April 3, 2020.

12 In Farmer v. Brennan (511 US 825, 114 S Ct 1970, 128 L Ed 2d 811)
 13 we see that "Once an official knows of substantial risks of serious
 14 harm [death?] and disregards that risk by failing to take reasonable
 15 actions to abate such risks", then the required standard of inquiry
 16 of such violation has been met. The official "must draw the inference"
 17 as to the risk. In this case it is clear that even though the manage-
 18 ment of MTC took measures to screen employees and protect themselves,
 19 they took action that actually INCREASED RISKS to the TCI inmates,
 20 including Movant. They did so to save money, and as of this filing,
 21 have taken no steps to correct these issues. Inmates are at extreme
 22 risk right now, April 5th, 2020. All inmates are now pending moves to
 23 other BOP facilities, MOST OF WHICH HAVE ACTIVE COVID-19 INFECTIONS
 24 AS POSTED ONLINE BY THE BOP.

25 The MTC/BOP response to date has been textbook "deliberate indif-
 26 ference" to preventing the introduction of the virus into TCI. No test-
 27 ing of inmates or staff, increased crowding & no recommended protective
 28 measures. It is imperative that the courts lessen the risks to all
 TCI inmates that are HOME CONFINEMENT ELIGIBLE and to those left be-
 hind a lower population will result in decreased risks for them as
 well. The lack of these measures by MTC staff is negligent, reckless

1 and possibly deadly to the unfortunate ones not moved in time. RAMPANT
2 INFESTATION IS SPREADING RIGHT NOW.

3 The elderly and infirm TCI inmates are facing VERY HIGH RISKS
4 and the majority of the inmates fall into one or both of those cate-
5 gories. As such, it is incumbent on the federal sentencing courts to
6 quickly review the status of these inmates and determine who can be
7 moved quickly to a home where they are able to be monitored by the
8 courts and and US Probation staff. This matter constitutes a "substan-
9 ial risk of harm" as was outlined in a relevant case WMX Techs Inc
10 v Miller 104 F 3d 1133 (9th Cir. 1997). In Jett v Penner 439 F 3d
11 1133 (9th Cir. 2006) we see that the Court ruled and affirmed the
12 standard definition of cruel and unusual punishment and the Eighth
13 Amendment to the US Constitution as it applies to these circumstances.

14 In this case, the staff is inflicting unnecessary pain in an an-
15 ticipated and well known outcome. The CDC and COVID TASK FORCE are
16 publishing hourly data on this PANDEMIC. There is zero doubt what the
17 outcome will be if one is exposed to and contracts this disease in a
18 prison environment. When MTC chooses to ignore such peril in the face
19 of overwhelming evidence of the all but certain risks and outcome, it
20 rises well above the bar for GROSSLY DISPROPORTIONATE sentencing con-
21 ditions.

22 In any court's view of the Eighth Amendment, the test for a sen-
23 tence and the crime severity being "GROSSLY DISPROPORTIONATE IN SEV-
24 ERITY" is the core test. If most of these non-violent men, like Movant,
25 were to be resentenced to an island where we all knew the CORONA VIRUS
26 was spreading actively, not a single judge in this nation would allow
27 such a sentence to stand. It would be grossly disproportionate to ANY
28 CRIME, let alone the crimes of conviction for the TCI inmates, where

1 these CAMP STATUS inmates all rate below "minimum custody standards",
2 and all have served a substantial portion of their sentences and have
3 less than three years to go. These months or years now need to be
4 served under HOME CONFINEMENT conditions, and with court established
5 rules of conduct to be enforced by the US Probation Staffs around the
6 nation. All orders of supervised release should also be applied, and
7 the full ~~time~~ served as ordered by the sentencing courts.

8 In conclusion, the lawful and statutory basis to release this class
9 of inmate is well established and defined, and the herein stated laws
10 indicate that clear violation of the Eighth Amendment to the US Con-
11 stitution is in FULL VIEW. There is an EXTRAORDINARY AND IMMEDIATE
12 RISK of harm or death to 100's of TCI inmates, all of whom are non-
13 violent and non-recidivists. These men do not deserve to risk
14 death or permanent injury at this moment in time, nor ever, based
15 upon the crimes that they committed. In truth and in fact, the Courts
16 must review the sentence conditions of these men as soon as possible
17 and order a removal to a safe place to self-isolate and fight the
18 virus that is sure to come. The BOP is obviously NOT ABLE TO PROTECT
19 INMATE POPULATIONS from infection. The numbers are climbing hourly at
20 an astounding rate.

21 MOVANT hereby prays that the Honorable Court review this case
22 and elect to allow THIS INMATE to move to HOME CONFINEMENT as soon
23 as possible.

24 "O YE who revel in affluence and power see the afflictions of
25 humanity and must bestow your superfluity to ease them" Alexander
26 Hamilton, Signor of the Declaration of Independence 1789 A.D.

CASE BIBLIOGRAPHY AND LAW

FIRST MOTION FOR RELEASE TO HOME CONFINEMENT

uscs 3582 (c)(1)(A) and USSG 2019 @ 1B1.13 & Notes

- A. Estelle v Gamble 429 US 97, 97 S Ct 285, 50 L Ed 2d 251 (1976)
Core Case on Eighth Amendment of the US Constitution
- Farmer v Brennan 511 US 825, 114 S Ct 1970, 128 L Ed 2d 811
- B. " Conditions in prisons are under scrutiny of 8th Amendment USC" and
" Being violently assaulted (experiencing death by disease) is simply not
part of the penalty that criminal offenders pay for their offenses ag-
ainst society"
- Valdes v Crosby 450 F 3d 1231
- C. " The US Constitution does not mandate comfortable prisons, but neither does it
permit inhumane ones"
- Ibrahim 463 F 3d @ 5
- D. " We have no difficulty concluding that a chronic disease that could result in
serious harm or even death does constitute serious physical injury"
- Hudson v McMillan 112 S Ct 995, 117 L Ed 2d 156, (1992)
- E. " the concept and definition of Deliberate Indifference by prison staff.
- Wood V Housewright 900 F 2d 1332 (9th CA 1990)
- F. concept of "serious need for medical treatment"
- Shapley v Nevada Board of State Prison Comm. 766 F 2d 404 (9th CA 1985)
- G. "the US Constitution is violated whether or not significant injury is
evident"
- P Wilson v Seiter 501 US 294, 115 L Ed 2d 271, 111 S Ct 2321 (1991)
- H. "conditions of confinement constituted cruel and unusual punishment"
(See attached items and second page of citations.....)

The core concept of the filing for HOME CONFINEMENT TRANSFER is universal in the United States Circuits of Courts of Appeals on the subject of violations of the 8th Amendment to the United States Constitution, and is in the following cases as cited herein:

1st Circuit Leavitt v Correctional R 645 F 3d 484, (2011)
2nd Circuit Romano v Howarth 998 F 2d 101 (1993)
3rd Circuit Andrews v Cardieco 95 F Supp 2d 217 (2000)
4th Circuit Jackson v Lightsey 775 F 3d 170 (2014)
5th Circuit Rogers v Boatwright 709 F 3d 403 (2013)
6th Circuit Blackmore v Kalamazoo Co. 390 F 3d 890 (2004)
8th Circuit Berry v Peterman 604 F 3d 435 (2010)
9th Circuit Andrews v Cervantes 2007 USA APP LEXIS 15187 493 F 3d 1047

and

8th CA Miller v Schoen 75 F 3d 1305 (1995)
10th CA mata v saiz 427 F 3d 745 (2005)
11th CA Snow v McDaniel 681 F 3d 978 (2012)

see added items.....

McGuckin v Smith 974 F 2d 1050 (9th CA 1992)

I.

Negligence, insidious risks, pervasive risks, deadly infection.....

WMX Techs Inc v Miller 104 F 3d 1133 (9th CA 1997)

J.

substantial risks of harm of inmates

Jett v Penner 439 F 3d 1091 (9th CA 2006)

K.

Infliction of unnecessary pain (anticipatory in case of COVID 19)

PAGE THREE. CITATIONS OF CASES. MOTION FOR RELEASE TO HOME CONFINEMENT.

18 USC 3582 (c)(1)(A) of the Comprehensive Crime Control Act

"Compelling and extraordinary reasons and circumstances warrant a reduction in sentences.....such as this VIRAL OUTBREAK of COVID."

USSG at 1B1.13 appl. n. 1(A).....

United States v Cantu-Rivera , No. CR H-89-204, 2019

Unites States v Lynn No. CR 89-0072 WS, 2019 WL 3805349 at *4 (S.D. Ala.)
(states Federal Judges have no authority to assume nor create their own criteria for what constitutes an "extraordinary" reason for re-sentencing)

US v Basciano 369 F Supp. 2d 349
(....as the BOP had ample opportunity to respond....the court found that further administrative process in this case would be a formality that would risk exposing Basciano to irreparable harm)

CORONA VIRUS MAP: Tracking the Global Outbreak at New York Times 3/25/20
www.nytimes.com/interactive/2020/world/coronavirus

People at Risk for Serious Illness from COVID-19 (3/12/2020)
<https://bit.ly.2vgUt1P>

FEDERAL PRISONS (bop) COVID 19 Action Plan
[https://www.bop.gov/resources/news/20200313 covid-19.isp](https://www.bop.gov/resources/news/20200313_covid-19.isp)

Letter from Chair of the US Congress House Judicial Comm:

"The DOJ and BOP must also do all they can to release as many inmates as possible who are currently behind bars and at risk of getting sick"

See extraordinary and compelling circumstances in inmate COVID risk cases listed herein.

EXHIBITS AND ATTACHMENTS

"MOTION FOR MODIFICATION OF IMPOSED TERM OF IMPRISONMENT"
UNDER § 3582(c)(1)(A)

EXHIBIT 1 INMATE REQUEST TO WARDEN AND RELEASE PLAN
EXHIBIT 2 ATTORNEY GENERAL MARCH 26, 2020 MEMORANDUM
EXHIBIT 3 TRANSCRIBED ATTORNEY GENERAL APRIL 3, 2020
MEMORANDUM
EXHIBIT 4 BOP UPDATE ON HOME CONFINEMENT, APRIL 5, 2020
EXHIBIT 5 TAFT CORRECTIONAL INSTITUTION (MTC) APRIL 6,
2020 MEMORANDUM ISSUING BLANKET DENIAL OF
WARDEN REQUEST FOR TRANSFER TO HOME CONFINEMENT and MOTION FOR REDUCTION IN SENTENCE

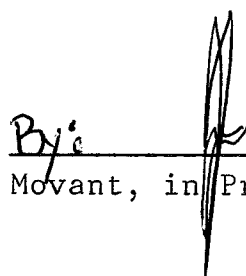
ATTACHED:

"STATEMENT IN SUPPORT OF EMERGENCY REQUEST FOR MODIFICATION OF
IMPOSED TERM OF IMPRISONMENT OF RELEASE TO HOME CONFINEMENT
OR SUPERVISED RELEASE"

"AFFIDAVIT AND MAILING CERTIFICATE OF SERVICE"

"BIBLIOGRAPHY OF CASES IN SUPPORT OF MOTION"

Dated: April 7, 2020



Movant, in Pro Se

Re-entry Plan
José Francisco García-Coronado No. 97930-308

Emergency Request For Modification of
impose term of imprisonment or ~~releat~~
release to Home Confinement or
Supervised Release.

If release I will be going home to my
wife and family. Their address is 110 Tennie
st. #D, San Diego, CA. 92173. I have been
married to my wife for 25 years, she will
support me economically until I can find
a job, which I do planing to do immediately.
I poses a Commercial Driver license and
I can easely that working right away.
I belong to the "Teamster's local 399". I
am also bilingual which will help me open
mor door for me. I can also work as
a electrician with Berg Electrician, a
firm that can open the door for me,
an they did before. Thank you for looking
into this important matter.

By: 

4/6/2020

MTC

Exhibit 1

INMATE REQUEST TO STAFF

NAME: Jose Garcia REG#: 97930-308 DATE: April 4, 2020Work Assignment: PM Compound worker Unit / Bed: A4B 26L

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

TO: Steven Merlak, Warden; cc: Curtis Logan, Camp Unit Manager (Bldg. A4)
(Name & Title of Officer/Employee)

SUBJECT: State completely but briefly the problem on which you desire assistance and what you think should be done. (Give Details)

Per the Attorney General's April 3, 2020 "finding that emergency conditions" exist within the BOP due to "extraordinary and compelling reasons" "unforeseen at the time of sentencing" that have placed me in circumstances which pose a high risk of death or serious illness from the COVID-19 pandemic, I am requesting immediate transfer to home confinement and 14 day quarantine in my "residence to which [I am] being transfered" and a motion by the BOP to be brought on my behalf for a "modification of my imposed term of imprisonment" via USCS § 3582(c)(1)(A) under Title 18. Attorney General April 3, 2020 Memorandum for Director of BOP; § 3582(c)(1)(A); U.S.S.G. § 1B1.13 and Application Notes.

I am at an even greater risk than the "average" inmate at other BOP facilities--at which inmates have died from COVID-19, and dozens are hospitalized--due to: (1) Taft's imminent closure (4/30/20); (2) My imminent pending transfer via MTC Staff, US Marshalls, and BOP Staff to another facility(es) (BOP Camp, Holdover, etc.) and exposure via buses, planes,

(SEE CONTINUATION SHEET)

DISPOSITION: (Do not write in this space) DATE: _____

Print Name/ Signature _____

CONTINUATION: REQUEST FOR HOME CONFINEMENT AND § 3582(c)(1)(A) Motion by BOP


holding cells; (3) not implementing BOP's "extensive precautions" as directed by the AG and BOP Director to protect the inmate population (per MTC Staff, Taft is exempt from protecting inmates enumerated in these Memoranda and Directives(?)); (4) consolidation of the living quarters from four dorms to two (March 30, 2020)—not to mitigate the risk of COVID-19 exposure and spread, but to further facilitate Taft's closure; and (5) the fact that the likely institution that I am designated will create an over-crowding situation—higher density due to the fact we have been told that we will be transferring to facilities in groups of 30 to 100.

I meet the factors and requirements directed and expressed by the Attorney General in his April 3 Memorandum and Emergency Declaration and March 26 Memorandum: (1) my age and vulnerability/underlying medical conditions to COVID-19; (2) I am classified as MINIMUM Security and Out/Community Custody; (3) I have exhibited exemplary conduct in prison with no violent or gang related activity and no BOP violations; (4) I have a verifiable re-entry plan that prevents recidivism and maximizes the protection of the public, my family, and myself from contracting COVID-19 at my release residence verses any BOP facility, including Taft; (5) I am eligible to receive Time Credits per PATTERN which confirms I am a non-violent offender and non-violent conviction history; and (6) my recidivism risk per PATTERN is Minimum.

I am 47 years old with documentable underlying medical conditions that increase my risk of death due to COVID-19 by 200% due to: Cholesterol and hypertension.

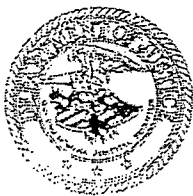
I will release to my wife's residence at: 110 Tennie Street #D, San Diego, California 92173.

April 4, 2020



Jose Garcia
97930-308

Exhibit 2



Office of the Attorney General
Washington, D.C. 20530

March 26, 2020

MEMORANDUM FOR DIRECTOR OF BUREAU PRISONS

FROM: THE ATTORNEY GENERAL

SUBJECT: Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic

Thank you for your tremendous service to our nation during the present crisis. The current situation is challenging for us all, but I have great confidence in the ability of the Bureau of Prisons (BOP) to perform its critical mission during these difficult times. We have some of the best-run prisons in the world and I am confident in our ability to keep inmates in our prisons as safe as possible from the pandemic currently sweeping across the globe. At the same time, there are some at-risk inmates who are non-violent and pose minimal likelihood of recidivism and who might be safer serving their sentences in home confinement rather than in BOP facilities. I am issuing this Memorandum to ensure that we utilize home confinement, where appropriate, to protect the health and safety of BOP personnel and the people in our custody.

I. TRANSFER OF INMATES TO HOME CONFINEMENT WHERE APPROPRIATE TO DECREASE THE RISKS TO THEIR HEALTH

One of BOP's tools to manage the prison population and keep inmates safe is the ability to grant certain eligible prisoners home confinement in certain circumstances. I am hereby directing you to prioritize the use of your various statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic. Many inmates will be safer in BOP facilities where the population is controlled and there is ready access to doctors and medical care. But for some eligible inmates, home confinement might be more effective in protecting their health.

In assessing which inmates should be granted home confinement pursuant to this Memorandum, you are to consider the totality of circumstances for each individual inmate, the statutory requirements for home confinement, and the following non-exhaustive list of discretionary factors:

- The age and vulnerability of the inmate to COVID-19, in accordance with the Centers for Disease Control and Prevention (CDC) guidelines;

Memorandum from the Attorney General

Page 2

Subject: Department of Justice COVID-19 Hoarding and Price Gouging Task Force

- The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities;
- The inmate's conduct in prison, with inmates who have engaged in violent or gang-related activity in prison or who have incurred a BOP violation within the last year not receiving priority treatment under this Memorandum;
- The inmate's score under PATTERN, with inmates who have anything above a minimum score not receiving priority treatment under this Memorandum;
- Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility;
- The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention.

In addition to considering these factors, before granting any inmate discretionary release, the BOP Medical Director, or someone he designates, will, based on CDC guidance, make an assessment of the inmate's risk factors for severe COVID-19 illness, risks of COVID-19 at the inmate's prison facility, as well as the risks of COVID-19 at the location in which the inmate seeks home confinement. We should not grant home confinement to inmates when doing so is likely to increase their risk of contracting COVID-19. You should grant home confinement only when BOP has determined—based on the totality of the circumstances for each individual inmate—that transfer to home confinement is likely not to increase the inmate's risk of contracting COVID-19.

II. PROTECTING THE PUBLIC

While we have an obligation to protect BOP personnel and the people in BOP custody, we also have an obligation to protect the public. That means we cannot take any risk of transferring inmates to home confinement that will contribute to the spread of COVID-19, or put the public at risk in other ways. I am therefore directing you to place any inmate to whom you grant home confinement in a mandatory 14-day quarantine period before that inmate is discharged from a BOP facility to home confinement. Inmates transferred to home confinement under this prioritized process should also be subject to location monitoring services and, where a court order is entered, be subject to supervised release.

We must do the best we can to minimize the risk of COVID-19 to those in our custody, while also minimizing the risk to the public. I thank you for your service to the country and assistance in implementing this Memorandum.

TYPED AS DICTATED OVER PHONE BY

AT 2130 APRIL 3, 2020

Exhibit 3

April 3, 2020

MEMORANDUM FOR DIRECTOR OF BUREAU PRISONS

FROM: THE ATTORNEY GENERAL

SUBJECT: Increasing Use of Home Confinement At Institutions
Most Affected By COVID-19

The mission of the BOP is to administer the lawful punishment our justice system imposes. Executing that mission imposes on us a profound obligation to protect the health and safety of all inmates.

Last week I directed the Bureau of Prisons to prioritize the use of home confinement as a tool for combating the dangers that COVID-19 poses to our vulnerable inmates, while ensuring we successfully discharge our duty to protect the public. I applaud the substantial steps you have already taken on that front with respect to the vulnerable inmates who qualified for home confinement under the pre-CARES Act standards.

As you know we are experiencing significant levels of infection at several of our facilities, including FCI Oakdale, FCI Danbury, and FCI Elkton. We have to move with dispatch in using home confinement, where appropriate, to move vulnerable inmates out of these institutions. I would like you to give priority to these institutions and others similarly affected, as you continue to process the remaining inmates who are eligible for home confinement under pre-CARES Act's standards. In addition, the CARES Act now authorizes me to expand the cohort of inmates who can be considered for home release upon my finding that emergency conditions are materially affecting the functioning of the Bureau of Prisons. I hereby make that finding and direct that, as detailed below, you give priority to implementing these new standards to the most vulnerable inmates at the most affected facilities, consistent with the guidance below.

Memorandum from the Attorney General

Page 2

Subject: Increasing Use of Home Confinement At Institutions Most
Affected By COVID-19

I. IMMEDIATELY MAXIMIZE APPROPRIATE TRANSFERS TO HOME CONFINEMENT OF ALL
APPROPRIATE INMATES AT FCI OAKDALE, FCI DANBURY, FCI ELKTON, AND AT
SIMILARLY SITUATED BOP FACILITIES WHERE COVID-19 IS MATERIALLY
AFFECTING OPERATIONS

While BOP extensive precautions to prevent COVID-19 from entering its facilities and infecting our inmates, those precautions, like any precautions, have not been perfectly successful at all institutions. I am therefore directing you to immediately review all inmates who have COVID-19 risk factors, as established by the CDC, starting with the inmates incarcerated at COVID-19 is materially affecting operations. You should begin implementing this directive immediately at the facilities I have specifically identified and any other facilities facing similarly serious problems. And now that I have exercised by authority under the CARES Act, your review should include at-risk inmates--not only those who were previously eligible for transfer.

For all inmates whom you deem suitable candidates for home confinement, you are directed to immediately process them for transfer and then immediately transfer them following a 14-day quarantine at an appropriate BOP facility, or, in appropriate cases subject to your case-by-case discretion, in the residence to which the inmate is being transferred. It is vital that we not inadvertently contribute to the spread of COVID-19 by transferring inmates from our facilities. Your assessment of these inmates should thus be guided by the factors in my March 26 Memorandum, understanding, though, that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations.

I also recognize that BOP has limited resources to monitor inmates on home confinement and U.S. Probation Office is unable to monitor large numbers of inmates in the community. I therefore authorize BOP to transfer inmates to home confinement even if electronic monitoring is not available, so long as BOP determines in every such instance that doing so is appropriate and consistent with our obligation to protect the public safety.

Memorandum from the Attorney General

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Affected By COVID-19

Given the speed with which this disease has spread through the general public, it is clear that time is of the essence. Please implement this Memorandum as quickly as possible and keep me apprised of your progress.

II. PROTECTING THE PUBLIC

While we have a solemn obligation to protect the people in BOP custody, we also have an obligation to protect the public. That means we cannot simply release prison populations en masse onto the streets. Doing so would pose profound risks to the public from released prisoners engaging in additional activity, potentially including violence on heinous sex offenses.

That risk is particularly acute as we combat the current pandemic. Police forces are facing the same daunting challenges in protecting the public that we face in protecting our inmates. It is impossible to engage in social distancing, hand washing, and other recommend [sic] steps in the middle of arresting a violent criminal. It is thus no surprise that many of our police officers have fallen ill with COVID-19, with some even dying in the line of duty from the disease. This pandemic has dramatically increased the already substantial risk facing the men and women who keep us safe, at the same time that it has winnowed their ranks while officers recover from getting sick, or self quarantine to avoid possibly spreading the disease.

The last thing our massively over-burdened police forces need right now is the indiscriminate release of thousands of prisoners onto the streets without any verification that those prisoners will follow the laws when they are released, that they have a safe place to go where they will not be mingling with their old criminal associates, and that they will not return to their old ways as soon as they walk through the prison gates. Thus, while I am directing you to maximize the use of home confinement at affected institutions, it is essential that you continue making the careful individualized determinations BOP makes in the typical case. Each inmate is unique and each requires the same individualized determinations we have always made in the context.

I believe strongly that we should do everything to protect inmates in our care, but that we must do so in a careful and individualized way that

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remains faithful to our duty to protect the public and the law enforcement
officers who protect us all.

EXHIBIT 4

Update on COVID-19 and Home Confinement

BOP continuing to aggressively screen potential inmates



Updated 6:40 PM ET, April 05, 2020

(BOP) - In response to COVID-19, the Bureau of Prisons (BOP) has instituted a comprehensive management approach that includes screening, testing, appropriate treatment, prevention, education, and infection control measures.

The BOP has increased Home Confinement by over 40% since March and is continuing to aggressively screen all potential inmates for Home Confinement. On April 3, the Attorney General enacted emergency authority under the CARES Act, to further increase Home Confinement.

Given the surge in positive cases at select sites and in response to the Attorney General's directives, the BOP has begun immediately reviewing all inmates who have COVID-19 risk factors, as described by the CDC, starting with the inmates incarcerated at FCI Oakdale, FCI Danbury, FCI Elkton and similarly-situated facilities to determine which inmates are suitable for home confinement.

Inmates do not need to apply to be considered for home confinement. Case management staff are urgently reviewing all inmates to determine which ones meet the criteria established by the Attorney General. The Department has also increased resources to review and make appropriate determinations as soon as possible.

While all inmates are being reviewed for suitability, any inmate who believes they are eligible may request to be referred to Home Confinement and provide a release plan to their Case Manager. The BOP may contact family members to gather needed information when making decisions concerning Home Confinement placement.

Since the release of Attorney General Barr's original memo to the Bureau of Prisons on March 26, 2020 instructing us to prioritize home confinement as an appropriate response to the COVID-19 pandemic, the BOP has placed an additional 566 inmates on home confinement. There are currently 3,419 inmate on home confinement and 7,199 inmates in Residential Reentry Centers (RRCs). To further assist inmates in pre-release custody, the BOP has waived financial requirement to pay subsistence fees.

We are deeply concerned for the health and welfare of those inmates who are entrusted to our care, and for our staff, their families, and the communities we live and work in. It is our highest priority to continue to do everything we can to mitigate the spread of COVID-19 in our facilities.

The BOP appreciates the dedication and significant work of BOP staff in carrying out their difficult mission in the face of the public emergency. The BOP would also like to thank the Attorney General, the CDC, the Public Health Service, and our state and local community partners for their support and assistance in the BOP's COVID-19 response.


Exhibit 5



Taft Correctional
Institution

MEMORANDUM

Date: April 6, 2020
To: Camp Inmate Population
From: D. Patrick, Executive Assistant/Grievance Coordinator
cc:
RE: Response to Influx of Inmate Requests to Staff

A handwritten signature in black ink, appearing to be "D. Patrick", is written over the "From:" line and extends slightly into the "cc:" line.

This is in response to the multiple Requests to Staff (Cop-outs) which have been forwarded to my office for response. Due to the number of Requests to Staff received, individual responses will not be provided, nor will any future requests regarding this same matter be addressed.

Staff has not been provided guidance by the Bureau of Prisons (BOP) regarding the Attorney General's Memorandums involving any revised procedures for an inmate's placement on Home Confinement. Therefore current procedures will remain in place.

Furthermore, due to the current decision by the Bureau of Prisons to close the facility and the subsequent transfer of all inmates, each of you will have to make this request at your new facility.

"Attached to and made a part of that certain Motion and Supporting Documents for 'Release to Home Confinement' as of April 5th, 2020, and filed of record thereafter."

VERIFICATION AFFIDAVIT

I, Jose Garcia, do hereby swear on my oath that the statements and facts included in the attached Motion are true and correct, and made to the best of my ability on the same date that I did affix my seal and sign this verification affidavit.

x By: 

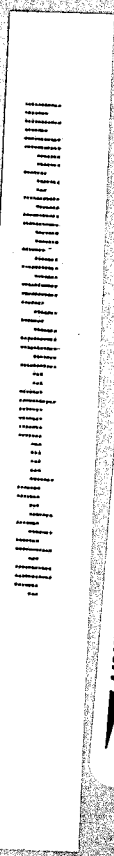
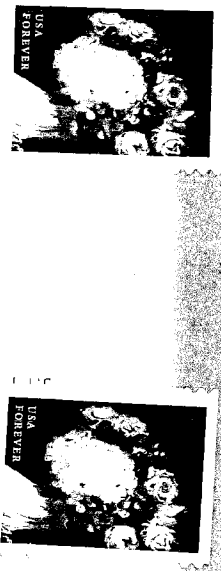
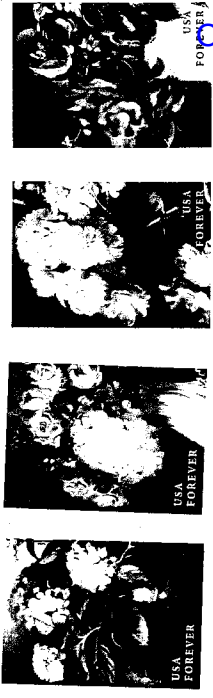
CERTIFICATE OF MAILING

On this date, April 8, 2020, I did cause the Motion and all supporting documents to be mailed, via U S Mail, to the Deputy of the Honorable Court, and therein filed into the electronic service system for further delivery to all Respondents named therein. I have requested a return stamped copy for my records.

x By: 

April 8, 2020

Jose Francisco Garcia-Coronado
#97930-308
Taft Correctional Institution
P.O. Box 7001
Taft, CA. 93268



United States District Court
Tucson, Arizona
405 W. Congress st. Tucson, AZ.
85701