

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,	:	CASE NO. 1:12-cr-272
	:	
Plaintiff,	:	ORDER
	:	[Resolving Doc. 70]
vs.	:	
	:	
RAYMOND M. BINNEY,	:	
	:	
Defendant.	:	

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendant Raymond Binney moves for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i).¹ Binney argues that the conditions at his prison facility make it likely that he will contract COVID-19 and claims that his slight obesity and some kidney disease history cause him increased virus complication risk.² The Government opposes.³ For the reasons stated below, the Court **DENIES** Binney's motion.

I. Background

In 2012, Binney was convicted of receiving and distributing child pornography, in violation of 18 U.S.C. § 2252(a)(2).⁴ The Court sentenced Binney to 180 months' imprisonment and five years' supervised release.⁵ Binney has been incarcerated since his June 1, 2012 arrest.⁶ The Bureau of Prisons houses Binney at FCI Milan in Michigan.⁷

¹ Doc. 70.

² *Id.*

³ Doc. 71.

⁴ Doc. 13; Doc. 19.

⁵ Doc. 19 at 2–3.

⁶ Doc. 15 at 1.

⁷ Doc. 70 at 3.

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II. Discussion

Binney, now 50, has a history of kidney disease and has recently developed slight obesity.⁸ Binney claims that the conditions at FCI Milan make proper sanitation and social distancing impossible, increasing his risk of COVID-19 infection.⁹ As of the writing of this order, FCI Milan has seen more than 140 COVID-19 inmate and staff infections and three inmate deaths.¹⁰ The facility has two current active COVID-19 infections.¹¹

Binney has served just over half of his 180-month sentence and has taken several college classes while incarcerated.¹² If released, Binney plans to live with his sister in Parma, Ohio.¹³ The Government opposes Binney's release.¹⁴

A. Exhaustion

The Court may modify a sentence upon the defendant's motion if the motion is filed 30 days after the defendant requests compassionate release from his facility's warden.¹⁵ On July 28, 2020, Binney first requested compassionate release from FCI Milan's warden.¹⁶ On September 30, 2020, Binney's attorney filed a supplemental compassionate release motion.¹⁷ Because more than 30 days passed between Binney's compassionate-release request and Binney's supplemental motion in this Court, as the government concedes, Binney satisfies 18 U.S.C. § 3582(c)(1)(A)'s exhaustion requirement.¹⁸

⁸ Doc. 75-2 at 40; Doc. 76 at 2.

⁹ Doc. 70 at 8.

¹⁰ Federal Bureau of Prisons, *COVID-19 Cases*, <https://www.bop.gov/coronavirus/> (last visited Oct. 21, 2020).

¹¹ *Id.*

¹² Doc. 66-2 at 9.

¹³ Doc. 70 at 10.

¹⁴ Doc. 71.

¹⁵ 18 U.S.C. § 3582(c)(1)(A).

¹⁶ Doc. 66-1.

¹⁷ Doc. 70.

¹⁸ *United States v. Alam*, 960 F.3d 831, 834 (6th Cir. 2020).

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B. Eligibility

To grant a compassionate release sentence reduction, however, the Court must find that “extraordinary and compelling reasons warrant such a reduction.”¹⁹ The Court must also consider the 18 U.S.C. § 3553 sentencing factors.²⁰

Binney’s circumstances do not present extraordinary and compelling reasons favoring compassionate release. Binney is a healthy 50-year-old.²¹ While obesity and kidney disease are COVID-19 risk factors,²² Binney has only recently developed slight obesity, and his kidney disease appears to have abated.²³ These conditions do not make Binney particularly vulnerable to COVID-19 complications.

While FCI Milan’s conditions do increase Binney’s COVID-19 risk, the 18 U.S.C. § 3553 sentencing factors weigh greatly against Binney’s compassionate release. Before his arrest, Binney amassed a nearly 10,000-video and 30,000-image child pornography collection.²⁴ The sordid collection’s content was particularly egregious, involving bestiality, bondage, and extremely violent prepubescent child abuse.²⁵ And Binney was not merely a child pornography consumer. He was an active internet child pornography distributor.²⁶

Further, Binney has served only half his sentence. Binney’s good behavior and rehabilitative efforts in prison, while admirable, cannot overcome the sentence’s nearly

¹⁹ 18 U.S.C. § 3582(c)(1)(A)(i).

²⁰ *Id.*

²¹ Doc. 15 at 2.

²² *People with Certain Medical Conditions*, CDC (Oct. 16, 2020), https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html.

²³ Doc. 75-2 at 40; Doc. 76 at 2.

²⁴ Doc. 15 at 6.

²⁵ *Id.* at 6–7.

²⁶ *Id.* at 9.

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seven-year remaining balance. Releasing Binney would not sufficiently reflect the seriousness of his offense, provide just punishment for it, or promote respect for the law.²⁷

III. Conclusion

For the foregoing reasons, the Court **DENIES** Binney's compassionate release motion.

IT IS SO ORDERED.

Dated: October 22, 2020

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

²⁷ 18 U.S.C. § 3553.