

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

CARLOS OLIVARES HERNANDEZ,
Defendant.

Case No. [4:15-cr-00547-JD-1](#)

**ORDER RE COMPASSIONATE
RELEASE**

Re: Dkt. No. 658

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons for a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A), and in light of the factors in 18 U.S.C. § 3553(a) and the applicable policy statements issued by the Sentencing Commission,

IT IS ORDERED that the motion is:

A. ☐ GRANTED

☐ The defendant's sentence of imprisonment of _____ is reduced to _____. If this sentence is less than the amount of time the defendant already served, the sentence is reduced to a time served; or

☐ Time served.

If the defendant's sentence is reduced to time served:

☐ This order is stayed fourteen days for the verification of the defendant's residence and/or establishment of a release plan, to make appropriate travel arrangements, and to ensure the defendant's safe release. The defendant will be released as soon as a residence is verified, a release plan is established, appropriate travel arrangements are made, and it is safe for the defendant to travel. If more than fourteen days are

needed to make appropriate travel arrangements and ensure the defendant's safe release, the parties will promptly advise the Court and show cause why the stay should be extended; or

☐ If a verified residence and an appropriate release plan are in place, this order is stayed for up to fourteen days to make appropriate travel arrangements and to ensure the defendant's safe release. The defendant may be released as soon as appropriate travel arrangements are made and it is safe for the defendant to travel. If more than fourteen days are needed to make appropriate travel arrangements and ensure the defendant's safe release, then the parties will promptly advise the Court and show cause why the stay should be extended.

☐ The defendant must provide the complete address where the defendant will reside upon release to the probation office in the district where they will be released because it was not included in the motion for sentence reduction.

☐ Under 18 U.S.C. § 3582(c)(1)(A), the defendant is ordered to serve a "special term" of ☐ probation or ☐ supervised release of _____ months (not to exceed the unserved portion of the original term of imprisonment).

☐ The defendant's previously imposed conditions of supervised release apply to the "special term" of supervision; or

☐ The conditions of the "special term" of supervision are as follows:

☐ The defendant's previously imposed conditions of supervised release are unchanged.

[] The defendant's previously imposed conditions of supervised release are modified as follows:

B. [] DEFERRED pending supplemental briefing and/or a hearing. The Court directs the United States Attorney to file a response on or before _____, along with all Bureau of Prisons records (medical, institutional, administrative) relevant to this motion.

C. [x] DENIED after complete review of the motion on the merits.

Reasons for denial: Hernandez filed a compassionate release motion on January 21, 2022, Dkt. No. 653, that was denied on July 11, 2022, for lack of compelling reasons or circumstances. Dkt. No. 656. His successive application, which appears to a highly general form petition, again does not identify any circumstances that would warrant release. Dkt. No. 658. To the extent that he seeks release to home confinement, the request is denied. *See Tapia v. United States*, 564 U.S. 319, 331 (2011) ("When a court sentences a federal offender, the [Bureau of Prisons] has plenary control, subject to statutory constraints, over the place of the prisoner's imprisonment and the treatment programs (if any) in which he may participate.") (citation and internal quotations omitted). A recommendation of home confinement is not warranted.

D. [] DENIED WITHOUT PREJUDICE because the defendant has not exhausted all administrative remedies as required in 18 U.S.C. § 3582(c)(1)(A), nor have 30 days lapsed since receipt of the defendant's request by the warden of the defendant's facility.

IT IS SO ORDERED.

Dated: October 27, 2022



JAMES DONATO
UNITED STATES DISTRICT JUDGE