IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, Plaintiffs, vs. ZACHARY AUSTIN Defendant.	**8:13CR105** **MEMORANDUM AND ORDER**

This matter is before the Court on Defendant's motion for compassionate release. Filing No. 402. The Defendant seeks a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act. Congress amended 18 U.S.C. § 3582(c)(1)(A) to permit defendants to move a sentencing court for compassionate release "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." Under the law, it matters not that the COVID-19 pandemic creates a great health risk to many prisoners. Administrative exhaustion under the Act is a jurisdictional prerequisite to this Court making a decision as to compassionate relief. The Court notes that the Defendant has exhausted her administrative remedies with the prison system. *See* Filing No. 403-4. The Court will order the United States Probation office to prepare an investigative report, review the relevant medical records and provide the Court with any additional relevant records not included in the filing, and conduct a review of the suggested home detention placement. The Court will likewise order the government to file its response.

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THEREFORE, IT IS ORDERED THAT:

1. The United States Probation Office, Doug Steensma, is ordered to review the Defendant's motion and Bureau of Prison records and file an investigative report within 30 days; and,
2. The United States Attorney's office, Steven Russell, shall have 14 days thereafter to file a responsive brief

Dated this 28th day of June, 2022.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge