

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Case No. 07-20168-JWL
)
 GERARDO TREVINO,)
)
 Defendant.)
)
 _____)

MEMORANDUM AND ORDER

On March 3, 2014, this Court sentenced defendant to a term of imprisonment of 120 months. On April 27, 2020, defendant filed the instant motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) (Doc. # 1898). Defendant has not indicated that he has satisfied the statute’s exhaustion requirement.¹ *See id.* (defendant may bring a motion after he has exhausted administrative appeals of the BOP’s failure to bring a motion on defendant’s behalf or after the lapse of 30 days from the receipt of such a request by the warden, whichever is earlier). Instead, defendant argues that the Court should waive that requirement. The undersigned agrees with the others judges in this district, however, that the requirement is jurisdictional and cannot be waived. *See United States v. Wright*, 2020 WL 2306898, at *2 & n.11 (D. Kan. May 8, 2020) (citing cases). Accordingly, the motion

¹ Defendant did not file a reply brief by the deadline of May 8, 2020.

is **dismissed for lack of jurisdiction**, without prejudice to the filing of another motion once defendant has satisfied the exhaustion requirement.

IT IS THEREFORE ORDERED BY THE COURT THAT defendant's motion for compassionate release (Doc. # 1898) is hereby dismissed for lack of jurisdiction.

IT IS SO ORDERED.

Dated this 18th day of May, 2020, in Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge