

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CRIMINAL ACTION</b>
<b>v.</b>	)	
	)	<b>No. 08-20061-01-KHV</b>
<b>SEAN EVERETT,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**MEMORANDUM AND ORDER**

On April 29, 2009, the Court sentenced defendant to 60 months imprisonment. See Judgment (Doc. #24). Defendant is currently incarcerated at the Federal Correctional Institute in Texarkana, Texas. This matter is before the Court on defendant's letter (Doc. #32) which the Court received on January 18, 2011, and which the Court construes as a motion for transfer.<sup>1</sup> Defendant states that his mother, who lives near Leavenworth, Kansas, is seriously ill. He asks the Court to transfer him to a prison camp or half-way house in Leavenworth so that his mother can visit him. For reasons set forth below, the Court overrules defendant's motion.

Decisions regarding classification and designation of inmates to a particular prison facility or program are vested within the Bureau of Prisons ("BOP"). At sentencing, the Court recommended that defendant be placed as close to Kansas City as possible based on family proximity. See Judgment (Doc. #24) at 2. A sentencing court's recommendation, however, is not binding on the BOP. See Fajri v. Corrs. Corp. Am., No. 03-3202-SAC, 2007 WL 594726, at \*2 n.10 (D. Kan. Feb. 20, 2007). Although the BOP must consider the sentencing court's recommendation

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<sup>1</sup> Defendant previously filed three motions asking for a reduction in his sentence. The Court overruled each of these motions, finding that the Court did not have jurisdiction to re-sentence defendant. See Doc. #26, 29, 31.

as to the appropriate penal or correctional facility, 18 U.S.C. § 3621(b)(4)(B), the final decision as to the prisoner's placement rests with the BOP. U.S. v. Lazo-Herrera, 927 F. Supp. 1472, 1472-73 (D. Kan. 1996) (citations omitted).

**IT IS THEREFORE ORDERED** that defendant's letter (Doc. #32) which the Court received on January 18, 2011, and which the Court construes as a motion to transfer, be and hereby is **OVERRULED**.

Dated this 15th day of February, 2011, at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge