

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICAN,
Plaintiff,

vs.

No. 16-10018-1-JTM

STEVEN R. HENSON,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant Steven Henson's Motion for Compassionate Release pursuant to 18 U.S.C. § 3582(c)(1)(A). The defendant, who was convicted of fourteen counts of distributing or dispensing Class C prescription drugs in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) (including one count charging the distribution resulted death); two counts of conspiracy to engage in such unlawful distribution, money laundering, obstruction of a court order, and making a false writing, was sentenced in 2019 to life imprisonment. The present motion asks for release based on the danger to inmates from the covid-19 virus.

After the First Step Act, the decision of whether to permit compassionate release is not longer solely committed to the BOP. However, the law still requires that the BOP be given the opportunity to review such requests before the court has the jurisdiction to consider any request. *See United States v. Raia*, 954 F.3d 594, 596 (3d Cir. 2020). Because

the defendant's motion fails to show that this opportunity occurred, the court is without jurisdiction and dismisses the motion.

Additionally, the court would observe that, even it were to consider the matter on the merits, the defendant has failed to demonstrate extraordinary and compelling circumstances justifying early release. Henson is under 60 years of age (Dkt. 417, a5 6), and cites no preexisting serious underlying medical conditions which would make him particularly at risk in the event he does contract the virus. Compassionate release based upon the covid-19 pandemic is not justified where the inmate lacks any special risk factors. *See, e.g., United States v. Wright*, 2020 WL 1976828, at *5 (W.D. La. Apr. 24, 2020).

IT IS ACCORDINGLY ORDERED this day of July, 2020, that the defendant's Motion for Release (Dkt. 525) is hereby dismissed.

s/ J. Thomas Marten
J. Thomas Marten, Judge