

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

No. 16-10019-01-JTM

SHAWN DAVID MCHONE,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant Shawn McHone's motion for a non-binding recommendation to the Bureau of Prisons (BOP) that he be placed in Residential Re-entry Center (RRC)/halfway house for the 12 months preceding the end of his sentence. On November 30, 2016, the court sentenced McHone to 60 months imprisonment, followed by 4 years supervised release.

As amended by the Second Chance Act, 18 U.S.C. § 3621(c)(1) provides that the BOP "shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term ... under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community." 18 U.S.C. § 3624(c)(1). Although this court lacks jurisdiction to modify the sentence imposed in 2016, it retains the ability to make such a non-binding recommendation to the BOP. *See United States v. Parlin*, 2019 WL

5268542 (D. Nev. Oct. 17, 2109) (citing *United States v. Ceballos*, 671 F.3d 852, 855 (9th Cir. 2011)). See also *United States v. Langham*, 670 Fed.Appx. 991, 992-93 (10th Cir. 2016) (district court's order providing previously-imposed sentence should be served concurrently with a state sentence and at a given location "was not an order, but a recommendation").

The court has considered the nature of the offense, McHone's previous personal history, his participation in prison educational programs, and concludes that such a recommendation is in the interests of justice, and so recommends that the BOP consider defendant for placement in RRC or a halfway house at the appropriate time.

IT IS ACCORDINGLY ORDERED this day of February, 2020, that the defendant's Motion for Recommendation (Dkt. 51) is hereby granted.

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