

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN L. HERNANDEZ,

Defendant.

Case No. 19-cr-40011-01-HLT

ORDER

This matter is before the Court on the Defendant's Unopposed Motion to Reduce Sentence Under 18 U.S.C. § 3582(c)(1)(A)(i) [Doc. 54] filed on August 17, 2020. Mr. Hernandez has four months remaining of a 27-month prison sentence for possession of a firearm by an unlawful user of controlled substance. He is 26 years old and suffers from asthma, which places him at a high risk of serious illness or death should he contract COVID-19. The government concurs with this request.

The Court has considered the applicable factors set forth in 18 U.S.C. § 3582(c)(1)(A)(i) to modify the defendant's term of imprisonment to time served. Extraordinary and compelling reasons exist here to warrant a sentence reduction of four months given Mr. Hernandez's medical condition and his completion of 85% of his sentence; and the current crisis arising from the COVID-19 pandemic. For these reasons, the Court finds that defendant's term of imprisonment is reduced to time served. Incarceration has served its purpose in this case and early release on grounds of compassion will further Congress's intent to expand availability to this form of relief. Accord *United States v. Ebberts*, --- F. Supp. 3d ----, 2020 WL 91399, at *4 n.6 (S.D.N.Y. 2020)

(noting that “the First Step Act reduced the BOP’s control over compassionate release and vested greater discretion with the courts”).

THE COURT THEREFORE ORDERS that the Unopposed Motion to Reduce Sentence Under 18 U.S.C. § 3582(c)(1)(A)(i) [Doc. 54] is GRANTED. The Court grants the motion for compassionate release and reduces Defendant’s sentence to time served.

IT IS SO ORDERED.

Dated: August 19, 2020

/s/ Holly L. Teeter
HOLLY L. TEETER
UNITED STATES DISTRICT JUDGE