

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**ORDER**

v.

6:18-CR-06015 EAW

Defendant.

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On December 10, 2018, defendant [redacted] (“Defendant”) pleaded guilty to conspiracy to commit mail and wire fraud in violation of 18 U.S.C. § 1349 and filing a false tax return in violation of 26 U.S.C. § 7206(1). (Dkt. 144). On July 25, 2019, Defendant was sentenced to six months on each count, to run concurrently, with a total of three years of supervised release to follow with various conditions, including six months of home detention with electronic monitoring. (Dkt. 246). On April 10, 2020, Defendant filed an Emergency Motion For Order Reducing Sentence/Modifying Judgment To Allow Remainder Of Sentence To Be Served On Home Confinement Pursuant To 18 U.S.C. § 3582(c)(1)(A)(i) (Dkt. 268) (hereinafter “Defendant’s Emergency Motion”). By letter dated April 14, 2020, the Government indicated that it did not oppose the request. (Dkt. 270). The Government could have taken the position that Defendant failed to exhaust administrative remedies, but to its credit the Government has elected to waive that objection because of the unique facts of this particular case.

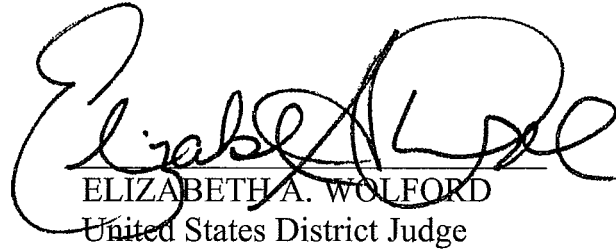
After considering the applicable factors set forth in 18 U.S.C. § 3553(a), the standard set forth at 18 U.S.C. § 3582(c)(1)(A), and the Policy Statement of the Sentencing Commission set forth at U.S.S.G. § 1B1.13, the Court hereby finds that extraordinary and compelling reasons warrant a reduction in Defendant's sentence; and further finds that the administrative exhaustion requirement has been waived by the Government; and further finds that Defendant is not a danger to the safety of any other person or to the community; and further finds that a reduction in sentence is consistent with the factors set forth in 18 U.S.C. § 3553(a) and the Policy Statement set forth at U.S.S.G. § 1B1.13;

Accordingly it is hereby ORDERED as follows:

1. Defendant's Emergency Motion (Dkt. 268) is hereby GRANTED;
2. Defendant's sentence is hereby reduced to TIME SERVED and Defendant is ordered to be IMMEDIATELY RELEASED. The Court directs the Bureau of Prisons to immediately commence the process of releasing Defendant from custody, and the United States Attorney's Office and United States Probation Office are directed to take all steps to communicate and facilitate Defendant's immediate release; and
3. Defendant's term of supervised release shall commence immediately upon his release from incarceration, subject to the terms and conditions set forth in the judgment (Dkt. 246) except that the conditions are modified as follows:
  - a. Following his release, Defendant must be transported directly to his residence in Ormond Beach, Florida, and may not make additional stops on his return home;
  - b. Upon returning to his home, Defendant must self-quarantine for fourteen (14) days; and

c. At the request of the United States Probation Office and in view of the ongoing emergency issues with respect to the COVID-19 disease and Defendant's ongoing medical issues, the condition of six months home detention subject to electronic monitoring is hereby removed.

SO ORDERED.



ELIZABETH A. WOLFORD  
United States District Judge

Dated: April 14, 2020  
Rochester, New York