

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:00CR147-GCM

UNITED STATES OF AMERICA,)
)
)
)
)
vs.)
)
MOHAMAD YOUSSEF HAMMOUD,)
a/k/a Ali A.A. Abousaleh,)
a/k/a Ali A.A. Albousaleh,)
)
Defendant.)
_____)

**UNITED STATES' RESPONSE OPPOSING MOTION FOR
COMPASSIONATE RELEASE**

Defendant Mohamad Hammoud moves this Court to grant him compassionate release under 18 U.S.C. § 3582(c)(1)(A). Because Hammoud has not identified any extraordinary and compelling reasons warranting his release, the United States opposes his compassionate release.

BACKGROUND AND PROCEDURAL HISTORY

Between 1996 and 2000, Hammoud led an organization that purchased, transported, and sold contraband cigarettes in exchange for more than \$7 million and causing a tax loss of more than \$4 million. WDNC Case No. 3:00CR147, Doc. 1163 ¶¶ 70, 72, 74. Hammoud sent a portion of the proceeds of these transactions

to Lebanon in support of Hizballah, an anti-America foreign terrorist organization. *Id.*, Doc. 1163 ¶¶ 74–75.

A federal grand jury indicted Hammoud and charged him with immigration-fraud, money-laundering, identity-theft offenses. *Id.*, Doc. 267 at 1–2, 18–19, 23–27, 29–30. Hammoud was also charged with conspiracy to possess, sell, distribute, and purchase contraband cigarettes, 18 U.S.C. §§ 371, 2342; two counts of possessing, selling, and distributing contraband cigarettes, 18 U.S.C. § 2342; and conspiracy to promote a racketeering enterprise, 18 U.S.C. § 1962(d). *Id.*, Doc. 267 at 12–18, 20, 22–23, 33–50. And Hammoud was charged with conspiracy to provide material support to a designated foreign terrorist organization, 18 U.S.C. § 2339B; and providing or attempting to provide material support to a designated foreign terrorist organization, 18 U.S.C. § 2339B. *Id.*, Doc. 1163 ¶ 58. A jury found Hammoud guilty of immigration fraud; money laundering; identity theft; conspiracy and two substantive offenses involving the transportation, possession, and sale of contraband cigarettes and evasion of state taxes; and conspiracy and one substantive offense of providing material support to a designated foreign terrorist organization. *Id.*, Doc. 1134 at 1–2.

This Court’s probation office calculated a preliminary total offense level of 46, which was reduced to the maximum offense level of 43. *Id.*, Doc. 1163 ¶¶ 94–95. This offense level included a 12-offense-level increase because Hammoud was convicted of providing material support to a foreign terrorist organization, U.S.S.G. § 3A1.4; a four-offense-level increase because Hammoud was a leader and organizer

of a criminal organization, *id.* § 3B1.1(a); and a two-offense-level increase because Hammoud committed perjury at trial, obstructing justice, *id.* § 3C1.1. *Id.*, Doc. 1163 ¶¶ 87–89. The Sentencing Guidelines suggested a sentence of life in prison, based on a total offense level of 43 and a criminal-history category of VI. *Id.*, Doc. 1163 ¶ 115. This Court sentenced Hammoud to 360 months in prison. *Id.*, Doc. 1134 at 2.

While in the Bureau of Prisons, Hammoud has received five disciplinary citations, including one citation for fighting in 2008. Exh. 1 attached hereto. Hammoud has completed 93 educational courses or work assignments. *Id.* Hammoud has 293 months of credited time. *Id.* Hammoud’s current expected release date is June 30, 2026.

In February of 2022, Hammoud submitted a request for compassionate release to the warden of his Bureau of Prisons institution. *Id.*, Doc. 1187-4 at 2. Hammoud now asks this Court to grant him compassionate release, asserting that if he were sentenced today, he would receive a shorter sentence, that his sentence is disproportionate when compared with similarly situated defendants, that he is not a danger to the community, and that he suffers from a skin condition that is not adequately treated in the Bureau of Prisons. *Id.*, Doc. 1186.

ARGUMENT

This Court should deny Hammoud’s motion for compassionate release because he has not identified extraordinary and compelling reasons for a reduction in his sentence.

Section 603(b) of The First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018), amended 18 U.S.C. § 3582(c)(1)(A) to permit a defendant to seek a modification of his sentence for “extraordinary and compelling reasons,” if the defendant has “fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” Before the First Step Act amended § 3582(c)(1)(A), a court could only act to reduce a defendant’s sentence for extraordinary and compelling reasons if the Bureau of Prisons filed a motion seeking that relief.

Although not binding on this Court, *see United States v. McCoy*, 981 F.3d 271, 282 (4th Cir. 2020), the commentary to Sentencing Guidelines § 1B1.13 provides specific and limited grounds for release under § 3582(c)(1)(A). These include (1) a terminal illness; or (2) a serious physical or medical condition, a serious functional or cognitive impairment, or deteriorating physical or mental health because of the aging process that “substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he is not expected to recover.” U.S.S.G. § 1B1.13 cmt. n.1(A). A defendant’s age may also warrant compassionate release, if (1) the defendant is at least 65 years old, (2) is experiencing a serious deterioration in physical or mental health because of the

aging process, and (3) has served at least 10 years or 75% of his term of imprisonment, whichever is less. *Id.*, § 1B1.13 cmt. n.1(B). Congress has made clear that rehabilitation of the defendant alone “shall not be considered an extraordinary and compelling reason” for a modification. 28 U.S.C. § 994(t).

In *McCoy*, the Fourth Circuit held that district courts are not limited to the grounds for compassionate release identified in section 1B1.13 and that a district court may “treat[] as [an] ‘extraordinary and compelling reason[]’ for compassionate release the severity of the [defendant’s] § 924(c) sentences and the extent of the disparity between the [defendant’s] sentences and those provided for under the First Step Act.” 981 F.3d at 286. The court must make an individualized determination that the defendant has identified an extraordinary and compelling reason for compassionate release, considering, for example, the length of time already served, any rehabilitative efforts made during the defendant’s time in the Bureau of Prisons, the defendant’s prior criminal history, and the defendant’s age at the time he committed his offenses. *See id.*

Hammoud has not alleged that he satisfies any of the criteria for compassionate release authorized in section 1B1.13, nor has he alleged any disparity between the sentence he received and the sentence “provided for under the First Step Act.” *McCoy*, 981 F.3d at 286. Instead, he asks this Court to exercise its discretion to grant him compassionate release because he believes that if he were sentenced today, he would likely receive a lower sentence; his sentence is

disproportionate to others convicted of similar offenses; and he suffers from a skin condition that is painful and not well controlled in the Bureau of Prisons.

This Court should decline Hammoud's request for compassionate release because he has not identified an extraordinary and compelling reason to grant him a reduction in his sentence, nor do the 18 U.S.C. § 3553(a) sentencing factors weigh in favor of this extraordinary relief. First, the sentencing statistics Hammoud relies upon do not support his argument that he would receive a dramatically lower sentence if he were sentenced today or that his sentence is disproportionate to similarly situated defendants. Hammoud notes that the mean sentence for money-laundering convictions is 58 months in prison and the mean sentence for defendants convicted of national defense crimes is 38 months in prison, for a combined mean sentence of 96 months in prison. WDNC Case No. 3:00CR147, Doc. 1186 at 19–20. But these bare statistics do not say anything about the details of the offenses committed by these defendants. The average money-laundering offense, for example, does not include the use of the proceeds of that offense to support a foreign terrorist organization or the 12-offense-level increase that Hammoud received because his offense involved a federal crime of terrorism. And “national defense” crimes includes failure to register and evasion of military service, which carries a base offense level of 6, *see* U.S.S.G. § 2M4.1, and does not account for Hammoud's support of terrorism that resulted in a 12-offense-level increase.

Second, Hammoud does not suggest that the Sentencing Guidelines would advise a lower sentence if he were sentenced today. And when Hammoud's

conviction for material support and his terrorism enhancement are considered, his 360-month sentence is not disproportionate to similarly situated defendants who have been sentenced in the last several years. *See, e.g., United States v. Kourani*, 6 F.4th 345, 348 (2d Cir. 2021) (affirming 480-month sentence for defendant convicted of conspiring to provide material support to Hizballah and unlawful procurement of citizenship, among other similar offenses); *United States v. Rahim*, 860 F. App'x 47, 58 (5th Cir. 2021) (affirming 360-month sentence for defendant convicted of conspiracy to provide material support to ISIS and lying to federal agents where defendant had no criminal history and was convicted based on encouraging support of ISIS over the internet).

This Court should also reject Hammoud's suggestion that he should receive a sentence reduction because courts have granted compassionate release on medical grounds to defendants convicted of more serious material-support activities. *See* WDNC Case No. 3:00CR147, Doc. 1186 at 23. Hammoud has not identified a medical reason warranting this extraordinary relief. Although Hammoud asserts that he suffers from a skin condition that is painful and has not been well controlled in the Bureau of Prisons, he also concedes that the Bureau of Prisons has facilitated Hammoud's care by a dermatologist, and Hammoud has not provided evidence supporting his assertion that the Bureau of Prisons has not provided adequate care.

The United States agrees that Hammoud has largely performed well in prison, and he appears to have job opportunities in Lebanon if he is released and deported. These mitigating factors, however, do not outweigh the seriousness of his

offense conduct, nor do they establish that Hammoud no longer poses a threat to the public safety. Because the nature and circumstances of Hammoud's offense conduct, the need to protect the public, the need for deterrence, and the need to provide just punishment for his terrorism offense weigh against a reduction in Hammoud's sentence, the United States opposes his compassionate release.

CONCLUSION

Hammoud has not identified any extraordinary or compelling reason for his compassionate release. This United States respectfully requests, therefore, that this Court deny Hammoud's motion.

RESPECTFULLY SUBMITTED, this the 31st day of March, 2022.

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From: [Lindsay Golding](#)
To: [Ray, Amy \(USANCW\)](#); [Caiti Harris](#)
Subject: RE: Mohamad Hammoud -- 3:00cr147
Date: Tuesday, March 8, 2022 2:30:04 PM

According to my calculations Mr. Hammoud has 293 months of credited time in BOP including GCT.

He has the following disciplinary records: Possession a Hazardous Tool (Code 108) 10/29/2019, Fighting With Another Person (Code 201) 03/29/2008, Contacting Public Without Authorization (Code 327) 08/07/2007, Destroy Property \$100 or Less (Code 329) 08/07/2007, and Failing to Stand Count (Code 320) 05/06/2007.

He has the following work, drug, and educational programming: Library, Orderly, Unit Orderly, Power Plant Maintenance, Communications, Landscape, Recreation Orderly, Inside Ground Maintenance, Admission and Orientation, Sew Backs, Education Orderly, Education Tutor, Food Service, Drug Education Complete, Physics in Your Life 2, Physics in Your Life 1, Algebra 1, Algebra 2, Algebra 3, Poet Joy Harjo, Lincoln Class, Tensions Over Immigration, The Great Depression, Revolution in Agriculture, Hyperinflation, Treaty of Paris, Horse Facts, Why is Plastic Harmful, Casey at the Bat, Immune Troops, Clash of Cultures, Song of Wandering Aengus, Bill of Rights, Glaciers, The Making of a President, An Atom Apart, Their There & They're, Volcanoes, Kennedy & the Cold War, Handball & Culture, Geography- East of Miss, Geography-West of Miss, Money Smart, Intermediate Real Estate, Introduction to Real Estate, Computer Applications, Keyboarding 1, Keyboarding 2, Keyboarding 3, Occupational College Electronics, Biology 5, Biology 4, Biology 3, Physics 2, Physics 3, Concert Masterworks 1, My Favorite Universe, Physics in Your Life, Shakespeare 1, European/Western Civ 4, Psychology 4, Modern Age Europe Civ 3, Yoga, World History 3, Biology 2, Work History 2, Biology 1, World History 1, Psychology 2, Psychology 1, Philosophy 2, Algebra 3, Story of Lang 3, Philosophy 1, Algebra 2, Algebra 1, Story of Language 2, Story of Human Language, Origins of Ancient Civ, Shakespeare A, Modern Age Europe/Western Civ, Fitness Trainer, Adult CPR, Computer Skills, Health Fair, Keyboarding, OSHA Certification, Writing Fiction, Beginning Spanish, Computer Lab Orientation, Step Aerobics, Law Library Orientation, and Legal Research.

Thanks,

Lindsay G. Golding
Senior U.S. Probation Officer
Sentencing Guidelines Specialist

From: Ray, Amy (USANCW) <Amy.Ray@usdoj.gov>
Sent: Tuesday, March 8, 2022 11:36 AM
To: Lindsay Golding <Lindsay_Golding@ncwp.uscourts.gov>; Caiti Harris <Caiti_Harris@ncwp.uscourts.gov>
Subject: Mohamad Hammoud -- 3:00cr147

CAUTION - EXTERNAL:

Lindsay and Caiti,

Would you send me Mr. Hammoud's BOP disciplinary information and how many months he is credited with having served, please?

Thank you!

Amy

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.