

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 95-00421-CR-COOKE

UNITED STATES OF AMERICA,

vs.

AUGUSTIN SANCHEZ,

Defendant.

ORDER GRANTING MOTION TO REDUCE SENTENCE

THIS MATTER is before me on Defendant's Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582 (c)(1)(A)(i) ("Compassionate Release") (the "Motion"). ECF 282. The United States opposes release. ECF 285. For the reasons discussed below, the Motion is **GRANTED**.

Defendant, Augustin Sanchez, is presently serving a life sentence. ECF 187. ¹He was convicted in 1995 of conspiracy to import marijuana, importation of marijuana, conspiracy to possess with intent to distribute marijuana, and attempted possession of marijuana with intent to distribute. ECF 165. Both the United States and Mr. Sanchez agree that at the time of his sentencing, Mr. Sanchez had no prior criminal history and was a first-time, non-violent offender. (ECF Nos. 282 at 2; 285 at 2). Mr. Sanchez has been in custody for over twenty-four years.

Mr. Sanchez submitted an Informal Request for relief to his unit team on April 17, 2019. Sealed Exhibit 4 at 1-5. He also submitted a Request for Administrative Remedy to the Acting Warden on April 29, 2019. *Id.* at 6-8. It was denied. *Id.* at 9-11. His request to the Central Office in September was also denied. *Id.* at 12-14.

The First Step Act provides district courts with the authority to reduce a defendant's sentence based on extraordinary and compelling circumstances. 18 U.S.C

¹ The co-defendants,: Odilio Gonzalez was sentenced to 235 months imprisonment and five years supervised release. ECF 105; Lazaro Hernandez was also sentenced to 235 months imprisonment and five years supervised release. ECF 188.

§ 3582(c)(1)(A)(i). I find extraordinary and compelling reasons for the Defendant's release. As a 76-year-old man he is extremely vulnerable to the COVID-19 virus. He suffers from hypertension, a heart murmur and has a history of mitral regurgitation. He is a diabetic and also has chronic kidney disease ²

The First Step Act grants district courts the authority to reduce a prisoner's sentence upon a finding of extraordinary and compelling reasons. A Bureau of Prisons Director's judgement does not constrain that authority. *United States v. Young*, No. 2:00-cr-00002-1, 2020 WL 1047815, at *5 (M.D. Tenn. Mar. 4, 2020.)

Mr. Sanchez has sought redress through the administrative channels; however, much has changed since his administrative requests and subsequent denials. The COVID-19 pandemic has altered the lens through which courts must consider compassionate release requests. The virus presents a danger to the elderly and particularly the elderly within correctional institutions where the ability to maintain social distance and comply with other suggested behaviors to reduce the spread of the virus is difficult, if not impossible. Mr. Sanchez is within the cohort (age and preexisting conditions) where contracting the disease may have a deadly out-come.

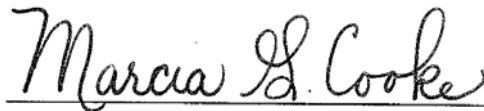
Courts in other districts have recognized the unprecedented nature of the massive health challenge that COVID-19 presents and ordered compassionate release as appropriate for defendants serving a life sentence. *See, e.g. United States v. Plunk*, No. 3:94-cr-36-TMB (D. Alaska Apr. 9, 2020) (granting compassionate release to prisoner serving two life sentences for drug offenses based on medical conditions and vulnerability to the COVID-19 pandemic due to age).

² "People who have chronic medical conditions, such as diabetes, lung disease and heart disease, face an increased chance of being hospitalized with covid-19 and put into intensive care, according to data released Tuesday by the Centers for Disease Control and Prevention that is consistent with reports from China and Italy. The new data gives the most sweeping look at the way covid-19 is causing serious illnesses among people in the United States who already face medical challenges. The report reinforces a critically important lesson: Although the disease is typically more severe among older people, people of any age with underlying medical conditions are at increased risk if they contract the virus, for which there is no vaccine or approved drug treatment." Joel Achenbach & William Wan, *New CDC Data Shows Danger Of Coronavirus For Those With Diabetes, Heart Or Lung Disease, Other Chronic Conditions*, Washington Post (March 31, 2020).

Continuing to incarcerate Mr. Sanchez is dangerous and counter-productive. Excessive punishment serves no valid purpose. Mr. Sanchez received a lengthy sentence. He has served almost a quarter of a century behind bars. He is 76 years old. His initial lengthy sentence reflected the seriousness of the offense and sent a strong message that the convicted conduct was not appropriate in our society.

Accordingly, it is **ORDERED and ADJUDGED** that Defendant's Motion (ECF No. 282) is **GRANTED**. And Defendant's sentence is reduced to time served. All other terms and conditions of his sentence remain.

DONE and ORDERED in chambers at Miami, Florida, this 27th day of April 2020.



MARCIA G. COOKE
United States District Judge

Copies furnished to:
Counsel of record