

April 28, 2020

VIA ECF

Hon. William H. Pauley III
United States District Court Judge
United States Courthouse
500 Pearl St.
Courtroom 20B
New York, NY 10007

Re: *United States v. Paul M. Daugerdas, 09-cr-581 (WHP)*

Dear Judge Pauley:

We represent defendant Paul M. Daugerdas. We respectfully submit this supplemental letter in further support of Mr. Daugerdas' motion pursuant to 18 U.S.C. § 3582(c)(1)(A) for compassionate release. (ECF Doc. Nos.1018, 1019.)

The articles attached as Exhibits A and B,¹ which were published in just the last few days, reveal that prisons performing widespread COVID-19 diagnostic testing on asymptomatic inmates have extremely high rates of infection. *See* Ex. A (“They started [testing in] the Marion Correctional Institution, which houses 2,500 prisoners in north central Ohio, many of them older with pre-existing health conditions. After testing 2,300 inmates for the coronavirus, they were shocked. Of the 2,028 who tested positive, close to 95% had no symptoms.”); Ex. B (“When coronavirus cases began to spike at North Carolina’s Neuse Correctional Institution, 60 miles southeast of Raleigh, prison officials took the opposite approach, testing all 700 inmates and 250 staff. They found at least 65 percent of the prisoners have the virus, a number that may increase as all results come in. Notably, 98 percent of those infected were not showing symptoms, said John Bull, a corrections department spokesman.”).

¹ Linda So and Grant Smith, “In four U.S. state prisons, nearly 3,300 inmates test positive for coronavirus -- 96% without symptoms,” *Reuters* (Apr. 25, 2020), available at: <https://www.reuters.com/article/us-health-coronavirus-prisons-testing-in-idUSKCN2270RX>, is attached as Exhibit A; Cary Aspinwall and Joseph Neff, “These Prisons Are Doing Mass Testing For COVID-19—And Finding Mass Infections,” *The Marshall Project*, (Apr. 24, 2020) available at: <https://www.themarshallproject.org/2020/04/24/these-prisons-are-doing-mass-testing-for-covid-19-and-finding-mass-infections>, is attached as Exhibit B.

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This data critically undermines the government's contention that because there are no confirmed cases of COVID-19 at USP Marion, Mr. Daugerdas is safer in the prison than he would be under conditions of home confinement. *See* Gov. Opp., ECF Doc. 1024, at 19-22. The federal Bureau of Prisons has persistently refused to test asymptomatic inmates. These reports of widespread COVID-19 infection in prisons performing widespread testing clarify that the absence of positive test results in USP Marion indicates only an absence of testing, not an absence of infection.

Respectfully submitted,

/s/ HEM

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cc: Counsel of Record (*via ECF*)