

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,

v.

BRETT LILLEMoe,
Defendant.

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CRIMINAL CASE NO.
15-CR-25 (JCH)

APRIL 21, 2021

**RULING RE: RENEWED MOTION FOR SENTENCE REDUCTION
(DOC. NO. 639)**

The defendant, Brett Lillemoe (“Lillemoe”), was found guilty after trial and sentenced to 15 months in custody. To date, he has served over 95% of that sentence, counting the good time credits he has earned, and without any disciplinary tickets.

Lillemoe now moves for the court to reconsider its denial of his previously filed Motion for Compassionate Release (Doc. No. 613). Having delayed its ruling, the court now grants the Motion and orders Lillemoe released for the following reasons.

Because of COVID, inmates at the Bureau of Prisons have served time under conditions much more confining than what has been typical. Inmates have been confined, often on lockdowns, and recreational and eating privileges altered. This was all done in an effort to avoid the spread of COVID within facilities. This court has not previously found such conditions as constituting extraordinary and compelling reasons under the Sentencing Reduction Act, 18 U.S.C. Section 3582(c).

However, Lillemoe is now under even stricter conditions, as the Bureau of Prisons facility prepares for his release to the community. In order to protect the public, the facility places inmates leaving in a special quarantine/release housing unit. Lillemoe calls it a “solitary housing unit.” The court identifies that phrase with a punitive unit,

which is not what the quarantine unit is meant to be. However, it has similar characteristics: lockdown in cells, usually solitary; all meals in cells; released for 20 to 30 minutes per day to shower, make a phone call, or use a computer. While not quite as punitive as a solitary housing unit, it is harsh. Of course, something like this is required to protect the public from inmates upon release: Bureau of Prisons is seeking to assure itself that its released inmates do not spread the disease.

Unfortunately, the facility where Lillemoe is incarcerated requires 28 days to accomplish this because of delay in testing results. At Lillemoe's facility, a released inmate is apparently required to be housed in the quarantine unit for 28 days, awaiting the results of 2 tests that are administered. The Center for Disease Control currently calls for quarantine of 14 days, with no testing, or 7 days with one negative test.¹

It is the conclusion of the court that this excessive time in such isolated conditions, after service of over 95% of a sentence with no disciplinary tickets, creates extraordinary and compelling circumstances under section 3582(c).

Lillemoe is housed under conditions that are not quite, but are close to, punitive segregation, and he has committed no violations. Given the public needs and Bureau of Prisons' limits on testing requirements be done for 4 weeks (when only 2 weeks, without testing, are required for public needs) leads the court to find extraordinary and compelling reasons to order Lillemoe's release immediately.

The court sees nothing in the 3553(a) factors to suggest a sentence of 14.5 months is inappropriate under these circumstances. While Lillemoe's crime was serious

¹ See; <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html> (updated Mar. 12, 2021); see also <https://www.health.state.mn.us/diseases/coronavirus/close.html> (same as CDC).

– fraud in connection with a government program – the court has no concern about the need to deter or protect the public. Further, aside from his conviction, Lillemoe’s history and characteristics are all quite positive. The court recognizes that the Guidelines are higher, but the court’s reasons for a variance at the original sentence are applicable to the sentence of approximately 2 weeks less.

For the foregoing reasons, the defendant is sentenced to time served (effectively a sentence of 14 months and 13 days).

SO ORDERED.

Dated at New Haven, Connecticut, this 21st day of April 2021.

/s/ Janet C. Hall
Janet C. Hall
United States District Judge