

LAW OFFICE OF KEVIN DOWNING

601 New Jersey Avenue NW · Suite 620 · Washington · DC · 20001

Confidential

April 13, 2020

VIA E-MAIL

Michael Carvajal
Director, Federal Bureau of Prisons
320 First St., NW
Washington, DC 20534

Vicky Moser
Warden, FCI Loretto
P.O. Box 1000
Cresson, PA 16630

Re: Paul J. Manafort, Jr., Inmate No. 35207-016

Dear Director Carvajal and Warden Moser:

Todd Blanche, of the law firm Cadwalader, Wickersham & Taft LLP, and I represent Paul J. Manafort, Jr., an inmate at FCI Loretto (Inmate No. 35207-016) who is serving a sentence of seven and a half years' imprisonment. We write on behalf of our client to request that the Bureau of Prisons ("BOP") immediately transfer Mr. Manafort to home confinement to serve the remainder of his sentence or, alternatively, for the duration of the on-going COVID-19 pandemic in accordance with Attorney General William Barr's directives to the BOP on March 26 and April 3, 2020, and the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), enacted on March 27, 2020. As discussed more fully below, Mr. Manafort is at a high risk of contracting COVID-19 at FCI Loretto due to his age and pre-existing health conditions, and it is imperative that Mr. Manafort be transferred to home confinement immediately in order to minimize the likelihood of Mr. Manafort contracting or spreading the potentially fatal disease. Mr. Manafort has been imprisoned since June 15, 2018, and he has served more than 25% of his sentence. Mr. Manafort is scheduled to be released on November 3, 2024.

As of today, there are reportedly over 561,000 confirmed cases with 22,106 deaths in the United States. In Pennsylvania, where Mr. Manafort is serving his sentence, there are 22,833 confirmed cases and 507 resulting deaths. The threat of COVID-19 is equally pervasive within the BOP facilities, with at least 352 inmates and 189 staff members testing positive for COVID-19, and at least 10 reported deaths of federal inmates. Even though there are no reported cases of COVID-19 at FCI Loretto at this time, given the growing number of cases in Pennsylvania and increasing challenges in testing inmates and staff potentially exposed to COVID-19, it is only a matter of time before the infection spreads to staff and inmates at FCI Loretto, at which time it may be too late to prevent high-risk inmates, such as Mr. Manafort, from contracting the potentially deadly virus.

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Recognizing the urgency of protecting federal inmates from the spread of the COVID-19 pandemic, Attorney General Barr issued a memorandum on March 26, 2020 (“March 26 Memorandum”) directing the BOP to prioritize the use of its “various statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic.” *Id.* at 1. The March 26 Memorandum also provided a non-exhaustive list of discretionary factors that the BOP may consider in assessing which inmates should be granted home confinement, including (i) “[t]he age and vulnerability of the inmate to COVID-19”; (ii) “[t]he security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities”; (iii) “[t]he inmate’s conduct in prison”; and (iv) “[t]he inmate’s crime of conviction, and assessment of the danger posed by the inmate to the community.” *See id.* at 1-2.

Following the enactment of the CARES Act, which broadens the authority of the Attorney General and the Director of the BOP, during the COVID-19 crisis, to release prisoners to home confinement, Attorney General Barr issued another memorandum to the BOP on April 3, 2020 (“April 3 Memorandum”) in which he made a finding that “emergency conditions are materially affecting the functioning of the Bureau of Prisons.” *Id.* at 1. Such a finding now permits the Director of the BOP to “lengthen the maximum amount of time for which the Director is authorized to place a prisoner in home confinement” under 18 U.S.C. § 3624(c)(2). CARES Act, H.R. 748, 116th Cong. (2020). Emphasizing that “time is of the essence,” Attorney General Barr also directed the BOP to “immediately review all inmates who have COVID-19 risk factors, as established by the CDC” and “to immediately process” for transfer and then “immediately transfer” following a 14-day quarantine all inmates whom the BOP deems suitable candidates for home confinement. April 3 Memorandum at 2. It is our understanding that Mr. Manafort has been under quarantine at FCI Loretto since Monday, March 30, 2020, thus making him eligible to be transferred immediately.

Attorney General Barr’s recent directives underlie the urgency with which the BOP must act to protect the health and well-being of at-risk inmates like Mr. Manafort. Thus, it is critical that the BOP immediately review, process, and transfer Mr. Manafort to home confinement because he is at “high-risk” for severe illness from COVID-19 under the Centers for Disease Control and Prevention (“CDC”) guidelines and meets several of the criteria for home confinement as set forth in Attorney General Barr’s March 26 Memorandum.

As discussed above, Mr. Manafort is 71 years old and suffers from several pre-existing health conditions, including high blood pressure, liver disease, and respiratory ailments. As the BOP is aware, in December 2019, Mr. Manafort was hospitalized for several days due to a heart condition. More recently, in February 2020, he contracted influenza and bronchitis. Mr. Manafort currently takes 11 prescription medications daily to treat his various health conditions, 8 of which are relevant to the requested relief:

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Medication (name/dosage)	Description
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

These medications as well as Mr. Manafort's health history make plain that Mr. Manafort is at a significantly higher risk for serious illness or death. Indeed, CDC guidelines provide that individuals who are 65 years and older as well as those with serious heart conditions and respiratory illnesses are at a higher risk for severe illness from COVID-19, including death. *See also*, Ankit Patel, MD, PhD, Amish Verma, MBBS, *COVID-19 and Angiotensin-Converting Enzyme Inhibitors and Angiotensin Receptor Blockers*, March 24, 2020 (noting growing concern that certain medications may make treatment of COVID-19 more difficult). Moreover, Mr. Manafort is serving his sentence for non-violent crimes related to tax and mortgage fraud (for which there were no victims) at FCI Loretto, which is a low-security facility. Mr. Manafort has been a model inmate and has not incurred any infractions or violations while incarcerated. Thus, he does not pose any danger to the community and is unlikely to recidivize while serving his sentence in home confinement.

Home confinement also is more likely to decrease Mr. Manafort's risk of contracting COVID-19 because he will be residing with his wife of 42 years, Kathleen Manafort, in a three bedroom apartment in Northern Virginia. Kathleen has been self-quarantining, and is in great health with no known exposure to or exhibited symptoms of COVID-19. While in home confinement, Mr. Manafort will remain in his apartment in

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order to self-quarantine and best protect himself and others in the community from exposure to COVID-19. Mr. Manafort is able to support himself financially during home confinement and will enroll in Medicare and seek additional health insurance as soon as he is released. Finally, if Mr. Manafort is transferred to home confinement, he will be able to be treated by his long-time physician. Therefore, based on the totality of the circumstances, transferring Mr. Manafort to home confinement in Virginia will not increase—and would likely decrease—his risk of contracting the potentially fatal disease.

We are available to discuss these matters at your earliest convenience. If you are inclined to deny Mr. Manafort's request for home confinement, we respectfully request that we be given the opportunity to appeal your decision to others at the Bureau of Prisons and the Department of Justice.

Sincerely,

Kevin Downing

cc: Deputy Attorney General Jeffrey A. Rosen
Darrin Howard, Esq., NERO Regional Counsel (d3howard@bop.gov)
NERO Consolidated Legal Center (NERO/ExecAssistant@bop.gov)