

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

IN RE: ORDER ESTABLISHING)	
PROTOCOL TO FURTHER)	
IMPLEMENT STANDING ORDER 19-1)	
FOR REPRESENTATION OF)	ADMINISTRATIVE ORDER 2020-8
DEFENDANTS SEEKING)	
COMPASSIONATE RELEASE DUE TO)	
COVID-19 UNDER SECTION 603(b))	
OF THE FIRST STEP ACT)	

This administrative order is to establish procedures and to further implement the Court’s Standing Order 19-1. In 19-1, the Federal Public Defender is appointed to represent indigent defendants who may qualify to seek compassionate release under section 603(b) of the First Step Act. In light of the emergency conditions due to the spread of the COVID-19 virus into the federal prison system, the number of compassionate release motions has increased significantly, and the urgency of some cases to be heard and adjudicated has grown. The Court, for good cause, adopts the following procedures:

1. The appointment of the Office of the Federal Public Defender for the District of Kansas in Standing Order 19-1 remains in place to determine whether a defendant may qualify to seek compassionate release under 18 U.S.C. § 3582(c)(1)(A). This appointment is for purposes of and includes: consultation with defendants who are looking to file a compassionate release motion or have already done so pro se; to correspond with the Bureau of Prisons (BOP) or other government agencies concerning compassionate release or related requests; and to enter an appearance to file a motion for compassionate release or any other pleadings related to or in furtherance of compassionate release.
2. Should the Federal Public Defender choose not to undertake the representation described in Standing Order 19-1 and paragraph 1 above, whether due to conflict, capacity, or any other reason, a member of the Criminal Justice Act (CJA) Panel from the District of Kansas shall be appointed to represent the defendant. In the case of a defendant who was previously represented by a member of the CJA Panel, and where the CJA Panel counsel expresses a willingness and ability to represent the defendant in pursuing compassionate release, CJA Panel counsel is hereby appointed to determine whether the defendant is eligible to petition the Court for compassionate release under Section 603(b) of the First Step Act and, where appropriate, to file a motion for compassionate release, or any other pleadings in furtherance of compassionate release.
3. All requests for compassionate release shall be filed in the original criminal case.

4. The Federal Public Defender or CJA Panel counsel representing any defendant in a compassionate release matter shall as soon as practicable confer and discuss with counsel from the U.S. Attorney's Office any compassionate release motion contemplated to be filed or that is already pending. For any compassionate release motion filed pro se, the parties shall confer within five days of the motion being filed.

The conferral is to identify any cases that deserve high priority attention of the Court, due to any combination of factors, such as:

- (a) The defendant's medical issues that correspond to the categories outlined in the commentary to U.S. Sentencing Guidelines § 1B1.13;
- (b) The defendant's underlying medical conditions that place the defendant at higher risk for severe illness from COVID-19; and/or
- (c) Imprisonment in a facility known to have a serious COVID-19 outbreak in its population.

If the parties agree that compassionate release is appropriate, they shall notify the Court and U.S. Probation Office forthwith. For high priority cases where the parties do not agree or where additional information is required to determine their positions, the parties shall alert the Court that they believe that an expedited schedule and consideration is appropriate.

5. To enable the Federal Public Defender and CJA Panel counsel to determine eligibility and prepare any requests or filings on a defendant's behalf, the Court directs the U.S. Attorney's Office to facilitate the process for them to obtain in a reasonable and timely manner, the most recent and relevant documents to a compassionate release motion. These documents include, but are not limited to: the defendant's last BOP progress report, sentence computation form, financial responsibility form, inmate education data, disciplinary data, medical records, requests to the Warden for compassionate release or related relief, the Warden's responses to such requests, and additional documents, such as Administrative Remedy Data which may reflect the Bureau of Prison's recommendation for release or denial of a compassionate release petition. The production of the defendant's medical records from the past year shall be given priority and shall be produced by the government to defendant's counsel as soon as practicable.
6. The BOP shall facilitate telephone or other communication, where available, between the defendant and counsel, as soon as practicable after receiving a request.
7. For any compassionate release motion filed pro se, the Federal Public Defender shall notify the Court within 15 days of filing whether it intends to enter an appearance on behalf of the defendant or to pass the case to CJA Panel counsel to undertake representation. The Federal Public Defender may also ask the presiding judge for additional time to determine whether it will undertake the representation. For cases where

the Federal Public Defender or CJA Panel counsel does not intend to enter an appearance, the matter shall proceed pro se.

SO ORDERED this 27th day of May 2020.

s/ Julie A. Robinson

JULIE A. ROBINSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT