

CLIENT NAME, by and through his attorney, ATTORNEY NAME, for the Federal Defender Services of Idaho, hereby requests the Court extend his deadline to self-surrender to the Bureau of Prisons for 90 days—or until June 16, 2020—due to the developing COVID-19 (coronavirus) pandemic

Counsel has contacted U.S. Probation Officer Mike Crusier, who does not oppose the request. Assistant U.S. Attorney Darci Ward has not determined what position to take on the motion.

The COVID-19 pandemic is a national emergency. Reuters, *Trump Declares Coronavirus National Emergency, Says He Will Most Likely Be Tested*, N.Y. Times (Mar. 13, 2020).¹ Cases in the United States have reached more than 3,000 even with limited testing and at least 61 individuals have died of the disease. NBC News, *Coronavirus Updates Live: Over 3,000 Cases in the U.S.; Airport Chaos Due to New Screenings*, (Mar. 15, 2020).² This District as well as private, local, and state entities have taken steps to control the spread of the virus. See, e.g., *Governor Signs Proactive Emergency Declaration to Further Prevent Coronavirus Spread in Idaho*, Id. Gov. Off. (Mar. 13, 2020).³

Mr. NAME was sentenced to a term of 12 months and one day on February 18, 2020. (ECF No. 26.) At the time of sentencing, the Court noted his numerous serious medical issues, including the fact that he has been determined to be disabled, and recommended that he be placed “in a facility that is able to adequately provide needed health care.” *Id.* Among his many physical health conditions, Mr. NAME suffers from Chronic Obstructive Pulmonary Disease (COPD) and relies on medication (including ipratropium and Symbicort) to control and manage his symptoms. (See ECF No. 21.)

Mr. NAME was allowed to self-surrender to serve his sentence and received instructions to report to the Federal Correctional Institution in Sheridan Oregon by 2:00 p.m. on March 18, 2020. As of today, the Bureau of Prison website announces: “All visiting at this facility has been suspended until further notice.” www.bop.gov/locations/institutions/she/ Oregon has 39 reported cases, with 182 pending COVID-19 tests. David Orr, *Live Updates: 39 Reported Cases in Oregon, School Districts Prepare Meals for Children*, OPB (Mar. 15, 2020).⁴ Although individuals with COPD have the same risk of catching COVID-19 as others, “they are more likely to experience serious complications if they become infected.” Joe Siebelts, *Coronavirus and COPD: What You Should Know*, Respiratory Health Association (Mar. 9, 2020).⁵ Thus, they are encouraged to take additional precautions to avoid infection,

¹ Available at <https://www.nytimes.com/reuters/2020/03/13/us/13reuters-health-coronavirus-usa-emergency.html?searchResultPosition=4>

² Available at <https://www.nbcnews.com/health/health-news/live-blog/coronavirus-updates-live-americans-fly-home-europe-intensifies-lockdown-n1159296>.

³ Available at <https://gov.idaho.gov/pressrelease/governor-signs-proactive-emergency-declaration-to-further-prevent-coronavirus-spread-in-idaho/>.

⁴ Available at <https://www.opb.org/news/article/oregon-coronavirus-live-updates-march-15-ski-areas/>.

⁵ Available at <https://resphhealth.org/coronavirus-effects-copd/>

including avoiding large crowds, travel, going out in public, and maintaining extremely hygienic practices. *Id.* While serious complications of illness are a health issue in any climate, they are particularly problematic in light of the current pandemic. Health experts agree that early interventions are necessary to avoid a crisis. Individuals who develop serious complications and need hospitalization could quickly overwhelm the medical system.⁶

According to public health experts, incarcerated individuals “are at special risk of infection, given their living situations,” and “may also be less able to participate in proactive measures to keep themselves safe.” *Achieving a Fair and Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States* (Mar. 2, 2020).⁷ “[I]nfection control is challenging in these settings.” *Id.* Outbreaks of the flu regularly occur in jails and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases. Nicole Wetsman, *Prisons and Jails Are Vulnerable to COVID-19 Outbreaks*, *The Verge* (Mar. 7, 2020).⁸ In China, officials confirmed COVID-19 spread at a rapid pace in Chinese prisons, counting 500 cases. Rhea Mahbubani, *Chinese Jails Have Become Hotbeds of Coronavirus as More than 500 Cases Have Erupted, Prompting the Ouster of Several Officials*, *Business Insider* (Feb. 21, 2020).⁹ It is therefore, extremely likely the COVID-19 will occur in the institutional setting and Mr. NAME is uniquely vulnerable given his chronic and debilitating medical issues.

As public health and government officials have made clear, the next eight weeks are critical in mitigating the seriousness and extent of the crisis. Thus, given his medical issues, Mr. NAME respectfully requests the Court allow him to avoid traveling or contacting others during this time period. He also requests extend his deadline for self-surrender to allow the Bureau of Prisons to develop policies and procedures to protect vulnerable individuals like him from COVID-19. An extension until June 16, 2020, should afford adequate protection to Mr. NAME.

⁶ The Bureau of Prison’s medical system was overtaxed even prior to COVID-19. *See* Natalie Hinton, Comment, *Curing the BOP Plague with Booker: Addressing the Inadequate Treatment in the Bureau of Prisons*, 41 *J. Marshall L. Rev.* 219, 231 (2007) (noting the BOP has been overpopulated and understaffed for years).

⁷ Available at https://law.yale.edu/sites/default/files/area/center/ghjp/documents/final_covid-19_letter_from_public_health_and_legal_experts.pdf.

⁸ Available at <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-soap>.