

Motion to Refute the

Opposition of the Government

USA v. Amber Bruey

2:21-cr-0074-TPB-
KCD

I was notified that the government responded in opposition to my compassionate release/reduction in sentence request claiming that my arguments were not valid because the BOP is providing an equivalent level of care to what I was receiving in the community and experimenting with medications; I have a sister they claim can care for my kids; and, the amount of financial loss was a large amount. While I do not refute the last point about the large loss amount, I do refute the governments other two arguments.

First, while it is true I do have a sister, Marnisa, who I am close to, she is not in a position to take care of my kids and would face many of the same issues as my mom with caring for them. She is a teacher, does not live near by + has a small apartment that could not accommodate my kids. She also has dogs and rescues dogs which 2 of my kids have severe allergies to. She could not work + care for them, but also could not care for them at all or herself without working. She could not get

them to their appointments as her job is not flexible which is part of the problem now. Despite her inability to care for them, it also does not address the nutritional needs (breastmilk) of the baby still being an issue. This issue was not addressed by the government but is still a big issue and BDP/FPC alderson refused to even attempt to place me in MINT program which was recommended by the Court and unopposed by the government. It then took over 3 months with repeated begging to even be able to store the milk for her despite the proof of medical necessity. Even though this was finally approved, I'm still restricted on when I can pump because its not allowed to interfere with work, classes, or callouts and when I've asked health services and the warden for assistance to help improve my supply to provide for the baby it has been denied. As mentioned, the baby is needing a consult for a vaginal adhesion surgery in which will require follow up care that my mom can't adequately provide because she can't see well enough. The 4 year old's autism poses a big challenge. He was diagnosed in

2023 (after sentencing). His doctor referred him for testing in Oct 2022 at his 3 year check up when she noted developmental delays. He was diagnosed with Level 3 autism which is the most severe form. He is unable to attend daycare because of this, needs multiple weekly appointments + is self-harming. My mom can not handle him with her poor health and my sister cannot either. He is one of the kids with a dog allergy and she couldn't get him to appointments or care for him while working. A letter was sent in from his dr at Quintessential health describing his autism and needs. My 10 year old has level 1 autism, intermittent explosive disorder, severe allergies + asthma. He requires weekly allergy appointments and therapy appointments that my sister could not get him to. He is my other child with a dog allergy and carries an epipen for it. My 10 + 12 year old had to be homeschooled starting January 2023. They were both being bullied and the

12 year old would come home with cuts + bruises and his anxiety got so bad because weapons were being brought to school frequently and he was scared and ended up having to start therapy and medication. With them being homeschooled its not something she could do and work. In addition to this, my mom's health has worsened because of the added physical stress of taking care of my kids to the point she is falling often even when caring one of the kids. I am the only available caregiver for my 5 Kids as well as my mom.

Regarding the government's assertion that the BOP is experimenting with my care and medications like my providers at home, this is not a true statement. I was on several long-term use medications that were working well for me, but upon entering BOP at FPC Alderson, the nurse took me off the following medications: Wellbutrin, Topamax, Klonopin, Ambien, Flexeril, Lyrica, Emgality, Fioricet, Singulair, Trelegy, albuterol + nebulizer treatments

I was seeing cardiology, pulmonology, neurology + primary care every 2-4 weeks and was needing to start physical therapy + see a spine specialist. I was in need of a cervical and thoracic MRI + all my providers said I needed to maintain close monitoring + follow up. While it is true that my doctor at Physician's East Cardiology were doing tests to find the cause of my heart issues + had me on a trial regimen of medications, the medications were starting to work. I have multiple health issues besides just my heart, including asthma, allergies, scoliosis, degenerative disc disease, bulging discs, cervical dystonia, depression, anxiety, migraines, seizures, rheumatoid arthritis, + fibromyalgia.

I was on Wellbutrin XL 300mg, Klonopin 1mg 3x/day, buspar 10mg 3x/day + topomax 100mg for depression + anxiety + had been successfully on these medications for years. As documented, I have a long history of depression + anxiety resulting from trauma, sexual abuse + domestic violence. This medication combination combined with therapy were helping me for the last several years, but BOP stopped these meds + will not provide therapy services

Although I've asked for help many times. This was not something they should have "experimented" with as it was something I was on long-term that had been working. Instead, they switched me to Depakote which does not work. I've told them this for 8 months. They did lab work to confirm serotonin levels which came back really low which showed the Depakote was not working, but they still haven't tried to help despite my multiple requests to go back to my regular meds + the confirming lab test. Therapy is also a big part of my mental health treatment needs that BOP refuses to help with, but I could get at my own cost at home.

I was on Lyrica for fibromyalgia and Flexeril for scoliosis + degenerative disc disease + needed to go to physical therapy, a spine specialist, + get a cervical + thoracic MRI. BOP has all these records, but will not treat me for these + took me off medications that were working. They only have me on Mobic right now for my back + joint issues + the pain + stiffness has gotten much worse. BOP is not "experimenting" here because they refuse to send me to a doctor or to receive the

testing I need and they are aware of because the nurse practitioner told me "if I needed medical care, I shouldn't have come to prison".

They also took me off my emgality migraine injections + didn't replace it. I get migraines atleast 4 days a week with no medicine to help.

Despite multiple copouts + conversations with HSH, they (BOP) are unwilling/unable to provide the proper ~~care~~ and needed medical care. They also took me off my Trelegy inhaler + despite them having records + a letter that said I needed continuous pulmonology monitoring + despite my complaints about shortness of breath + increased asthma attacks I have still not gotten help + they refuse to put me back on the trelegy that was working. They (BOP) don't even follow their own precautions/restrictions they put in place for me. They said + marked my file that I should not be exposed to excess cold or wind, yet I have to walk 1/2 a mile to the dining hall or work + back to the unit regardless of the weather and I have to stand outside in below freezing temps with rain, snow, sleet, ice or wind for 20 or more minutes each day to take a pill that they moved from self

carry + will now only let people get it on pill line (Buspar). They also know my dog allergy + noted it as an anaphylactic reaction when I arrived, yet they moved dogs to my unit + even when I talked to health services + sent a copout to unit team it was not addressed. Additionally, the dogs are allowed to run around in the area I pump in, causing more issues with my asthma + allergies + another barrier to providing the breastmilk in that I have to coordinate around when they are in that area. So, with all of this being said, while the government claims the BOP is doing a good or equivalent job of meeting my healthcare needs or providing care for me, I respectfully disagree given the above + previously submitted arguments. It is not equivalent healthcare when I am taken off long-term use medications + my health is declining or when you are forced to live around your life threatening allergies. I need to be able to get the proper medical care to regain my health and I can not get that in FPC Alderson, though I could on home confinement or FLM (Federal Location monitoring).

The government did not argue on the amendment 821 which I included since this is a 3582 motion. I asked to be considered under the status points category as well in determining my compassionate release/reduction in sentence. My current criminal history category is 3, with an offense level of 24, resulting in a range of 63-78 months. With amendment 821 my criminal history category would be lowered to a category 2, offense level 24, resulting in a range of 57-71. Although I have previous charges listed, neither of them was a conviction + the court departed downward given the psychological report of Dr. Twining. With the new guideline range and the same consideration for a departure, it would result in a lesser sentence. As previously mentioned and records provided, I have been incident free for 20 months on pretrial as well as during incarceration. I have worked full-time as a teacher's aide teaching GED + ESL since July 2023 and I have taken multiple classes + programming opportunities to better myself + help others. I'm asking for my post-conviction rehabilitation and self-improvement to be considered in your decision.

While I am not refuting the government's argument that it was a large amount of money, I would like to note that at the time of sentencing I did not have all the health issues I do now. My children also did not have all the medical issues that they do now as their diagnosis came at the beginning of 2023 + my health worsened after my pregnancy. The pregnancy was also not expected as preventative measures were in place (nexplanon implant) and I could not have anticipated the complications and health issues that resulted as all my previous pregnancies had not resulted in these types of issues. My 4 year old + 10 year old were diagnosed with autism in February and April of 2023 (after sentencing), this resulted in increased needs for them. The 10 + 12 year old had to be moved to homeschool January 2023 and my health issues and the baby's came about after delivery in January 2023. Additionally, my mom's health has now gotten worse to the point she is having a lot of difficulty and even needs help caring for herself

because of the added physical strain of caring for my 5 kids.

Despite the picture the government tries to paint, I am still a good person. I take full responsibility for my crime; however, I am making this request because my health should not deteriorate just because I'm in prison and BOP/FPC Alderson cannot or will not help me meet these needs. If this is granted, even if I'm on home confinement or FLM, I can promptly resume care + proper medication regimens with my doctor at my own expense through my BCBS Insurance. My mom's health should not deteriorate further to the point she will be unable to provide any self care and my kids should be able to get the medical care and nutrition they need.

Lastly, the government did not appear to refute the FSA calculations that could put me on home confinement or FLM in February 2024 if properly applied. I'm asking you to strongly weigh this in your decision which would allow me to get the medical care I need and take care of my mom and

Kids as well as start working to be able to repay my restitution.

Please review all the information I have submitted regarding my health issues and lack of medical care at FPC Alderson, the needs of my children (especially the baby with her nutritional needs), the need to be able to care for my kids + my mom as the only available caregiver, as well as amendment 821 and eligibility based on new BOP guidelines to be placed on home confinement or FUM in February 2024 with all FSA credits and 2nd chance act time (3624(c)(1)+(2)), the ability for Greenville, NC probation to accept me for FUM as well as my need to work + pay restitution + provide for my kids. Please renew previously submitted case law supporting compassionate release and post-conviction rehabilitation. I

Thank you for your time and consideration and please accept this to respectfully refute the government's claims and support the approval of my request.

Respectfully Submitted,
Amber Bracy
Amber Bracy 43247589

1/18/24