MOTION FOR COMPASSIONATE RELEASE 3582c
WITH EXPEDITED REVIEW AND PERMISSION
TO FILE IN FORMA PAUPERIS

Case #: 2:21-cr-74-TPB-KCD

I am requesting as a pro se litagant for compassionate release/ reduction in sentence under 18 U.S.C. 3582c(1)(A) and 4205(g). Due to seeking compassionate release for several factors, I am requesting consideration under the "other extraordinary factors" consideration. The reasons I am seeking compassionate release are my own several chronic health issues that I'm not able to get proper care for from BOP that were not known at the time of sentencing, but came about as a result of pregnancy complications prior to surrendering. I have 5 children who have several medical issues that require multiple weekly and ongoing appointments that were not all known at the time of sentencing and my mom is the only available caregiver who has several chronic and debilitating medical conditions so it's hard for her to get them to appointments and she misses her own appointments which only makes her own health issues worse. Not being able to drive and her health as well as taking care of my kids makes it where she can't work and she is struggling to pay bills, medical copays and medications for herself and my kids. In addition, I have been diligently programming since my surrender at FPC Alderson on 5/12/23 and I work as a GED and ESL teacher aide in the education department since July 2023. In addition, I qualify for amendment 821, Second Chance Act (3624c(1) and 3624c(2)), and First Step Act credits. According to USSG 1B1.13, the court may reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. 3553(a), to the extent that they are applicable, the court determines that: 1) Extraordinary and compelling reasons exist 2) the defendant is

not a danger to the safety of any other person or to the community provided in 18 U.S.C. 3142g and 3) The reduction is consistent with this policy statement.

The first part of my request pertains to my own health. As the court is aware, my baby was born prematurely due to my health complications when I was diagnosed with pre-eclampsia with severe features. After contracting COVID in 2022 and these pregnancy complications I was diagnosed with cardiomyopathy, reduced left ventricular ejection fraction, hypokinesis of the heart muscle, high blood pressure, tacchycardia, Hypersensitivity lung disease, chronic asthma, progressive, debilitating arthritis, debilitating scoliosis, degenerative disc disease, cervical dystonia, fibromyalgia, chronic severe migraines, ADHD, allergies, depression, and anxiety. I was also needing to be evaluated by a spine specialist for possible surgery and per the neurologist needed to start Physical Therapy. My primary care doctor, cardiologist, pulmonologist, and neurologist all wrote letters attesting that I needed close and continual follow up and needed to maintain my medication regimen, but since arriving at FPC Alderson I have not received the care I have needed other than a cardiology referral. According to the FPC Alderson handbook, inmates are to be seen within 30 days of the referral. My referral was done in May 2023, but I did not get to see a cardiologist until September. He wanted to see me back in December 2023, but to date I have not been seen for the follow up despite still having shortness of breath and fluid retention issues as well as tacchycardia that was being evaluated through heart monitors prior to my surrender to determine the cause. I have asked about seeing other doctors for my issues and have been told to "be patient". I was on 23 medications when I came into BOP custody (which my doctors said I needed to stay on) but when I entered FPC Alderson a nurse took me off of most of them and now I'm only allowed to be on 9 medications that are not addressing my health

needs. When I asked the practitioner doing my initial intake about my medications or seeing doctors for my medical issues she said, "If you need medical care, don't come to prison". I understand that I made bad choices that led me here, but I can't help my medical conditions or the care that I need. I have told Health Services on several occassions that the medications are not helping and I have asked for other options or to go back to what I was on when i came in (which they have full records of) but they do not help me. I have written copouts about my back pain from my fused spine, scoliosis and degenerative disc disease and they have said to come to sick call, but when you go to sick call, they charge you $2 copay and tell you to go to commissary and buy ibuprofen and muscle rub. These do not help me. I have had chronic long-term back and joint and muscle issues that I have had to be on several prescription medications for. The ibuprofen and muscle rub do not work to relieve my pain. There are days that I can barely get up out of the bed or walk from the pain but it gets to the point that its not worth paying $2 I don't have to not receive any help. I also have a long history of mental health and trauma issues from sexual abuse as well as domestic violence and I was receiving mental health therapy weekly before coming to FPC Alderson as well as a long-term medication regimen that was helping me (Wellbutrin, Topomax, Klonopin, and Buspar). They took me off these medsications and put me on Depakote and buspar only. I gave it several months to see if it would work, but it doesn't and I told them, but I still haven't had any adjustment to the medications. I asked to be switched back to my original medications or have something increased or added. The did blood work to check my serotonin levels and they were low. They did this blood work in June 2023 which would show the medication was not working but I still have not had it adjusted or changed. My depression and anxiety are worse than they have been in a long time and they won't or can't provide me the help I need. They also took me off of my migraine injections and said

the Depakote would help with them but it is not. Im also having a worse time with my asthma. They took me off my Trelegy inhaler and my Singulair prescription for allergies. Being exposed to my allergies makes my asthma worse and the inhalers they have me on are not helping. I asked to be switched back to Trelegy and they will not. I asked about my Singulair allergy medication and they said I could buy Claritin from commissary but Claritin does not work for me which is why my doctor put me on Singulair. At my initial intake they took down all my allergies and put me in a unit with no dogs because of my allergy to them. A few months however, they moved dogs into our unit and recently said that the dogs can walk up and down the hallways (allowing their dander which is my allergy to come into my room), the bathrooms, dining areas, etc. The officers said that in the "real world" we would encounter them. The difference is in the "real world" I can avoid them where here I can't. I am also allergic to mold and there is black mold growing in a huge area in our email/ice and water room as well as in the shower rooms. They do not fix the issue. They just paint over it or replace the sheetrock which allows it to grow back and will never get rid of the issue. Constant exposure to this makes my asthma and and allergies worse and they know in health services that I have difficulty breathing but they still won't switch medications or let me see a pulmonologist. I have also broken out in hives on multiple occassions because of the exposure to the dogs and the mold. I am asking for compassioante release so I can see medical doctors and get my health under control and get on the medications that I need to be on and to not be exposed to things that make my health worse.

The second reason for my request is because of my children's health and needs to be cared for. Since my sentencing in July 2022 many things have changed with their health and needs. My oldest son, Andrew, is 14. He is generally healthy, but has been diagnosed with asthma and depres-

depression. He is now having to reeive mental health treatment twice a month which is hard to get him to because my mom, who is currently their primary caregiver, can't drive. My 12 year old, Aidan, has been having digestive issues, ADHD, and depression and is on medication for depression and he is having to see mental health weekly and both occupational and physical therapy weekly as well. My 10 year old, Avery, has had drastic health issues requiring him to carry an epipen and avoid outside environments where most of his allergies are. For this he receives weekly immunotherapy shots. He has also been diagnosed with asthma and generalized anxiety disorder, major depression, intermittent explosive disorder, ADHD, and Level 1 autism. He is on multiple mental health medications to help with these things. In addition, Avery has voiced thoughts of self harm and harming others requiring more intensive mental health therapy. He also receives weekly occupational therapy and needs to start ABA therapy, but with my mom's limitations, physically and financially, he has not been able to start yet. Asher is 4 and he has asthma and allergies, but he also has level 3 autism which is the most severe form and requires lifelong substantial care and support. He is self-harming and he elopes because of his autism and he requires multiple weekly appointments including occupational therapy, play therapy and he too requires ABA therapy due to his autism but has been unable to start. Asher's needs are very difficult for my mom to meet given her poor health. She has muscular dystrophy and can't chase after or catch him if he elopes which could lead to devastating consequences. My last child is Autumn. She is 10 months old and was born prematurely, 1/21/23. As a result, she has been only able to have breastmilk. I came before the court in May 2023 to ask that the court send me to the MINT program (Mother's and Infants Together), which is a program through a halfway house where you are able to keep your baby with you for a set amount of time. I asked for the court to send me to this program so i could meet Autumn's breastmilk requirement need-

I had spoken to the head of the RRM that manages the Hillsboro, WV MINT program, and they had said that although it is not typically done, they could make an exception given the needs my baby had if it was recommended by my judge and the case worker put in the referral. After explaining the situation to the court, you agreed and recommended participation in the MINT program. The government did advise that the program was normally reserved for inmates that give birth while in custody (which I understood) however that is also the definition of an exception: somthing that doesn't normally occur. The government also was not opposed to the court's recommendation. When I arrived at FPC Alderson and tried to discuss the matter with my case manager, she said she didn't have to do a refferal, it didn't matter what the judge said it was only a recommendation, and she wasn't going to put the referral in. When I asked her what other options I had and explained my baby's issues, asking how I may be able to get her breastmilk she told me, "you shouldn't have committed a crime and yuou wouldn't have put your baby or your family in this situation". I started asking every one for help. HSU kept saying "waiting on guidance." The CCM never responded back to my several copouts asking for help. The unit manager said he would get back to me but never did. The AW said to stop emailing him and HSU would let me know something. I pumped and dumped breastmilk my baby desperately needed from 5/12/23 to 8/25/23 while my mom had to buy breastmilk from a milk bank. August 25, 2023 is the first time I was allowed to pump and store my breastmilk. The pump I am provided is a manual medline pump which is hard to use because of my arthritis and the electric pump is a medline (non hospital grade) pump, but it is not good enough quality to allow the most milk expression. I explained this to health services and I asked if I could be prescribed reglan which helps increase milk production and I was told no. My supply was dropping because I did not have regular access to or a good quality pump to keep my supply up like I needed to.

I asked the warden if I could have a better quality pump provided at my expense and was told no. All of this has made providing milk for her extremely difficult. She still requires breastmilk and she is also still under cardiology observation for the PFO that still has not closed and may now need surgery for a vaginal adhesion that won't heal correctly. With my daughter requiring breastmilk and the extensive needs of my other kdis, I am the only available caregiver for them. Similar cases that have supported compassionate release being granted to care for children is USA vs. sheena Strong case # 1:18-cr-00167HG where the defendant was removed from the MINT program for violating the rules but granted compassioante release to care for her baby. Also, in USA vs. Ivana Yartizell Rodriguez, case # 3:19-cr-04693-GPC, the court found that "separatio nthree months after the newborn's birth is an extraordinary and compelling reason justifying a sentence reduction. Separation of a newborn child from their mother is an extreme measure that should occur rarely."

The third part of my request is in regards to my mom, Vivian Higginbotham, being the only available caregiver for my 5 kids. She is 57 years old (DOB: 8/18/66) and has several chronic health issues. She has muscular dystrophy, heart and kidney disease and depression and anxiety. Her health conditions, especially the muscular dystrophy make extremely difficult for her to take care of my kids. She has muscle weakness so its hard for her to pick up and carry the younger two kids or change their diapers. The 4 year old, as mentioned, elopes because of his autism and she can't chasae after him which makes it a safety risk. Her muscular dystrophy has caused her sight to diminish so badly that she is now legally blind and no longer drives which makes it very difficult to get herself and my kids to their weekly appointments, much less if an emergency situation occured, she would not be able to immediately respond or get help. Her diminshed eyesight also makes it where she can't ensure the baby is cleaned well at diaper changes

because she can't see where she is cleaning. Because of her health she has not been able to work in 2-3 years so she has no income and has been living off her retirement which has gone much quicker with the added expenses of 5 children. With no income and no more retirement funds she can no longer afford to care for them including herself. Aidan and Avery are homeschooled. Aidan because he was being bullied extensively and Avery because of his health issues and anxiety about school. This makes things even more unmanagable for her because she has 4 out of 5 of the kids to take care of all day. I need to be able to be home under supervision so that I can take care of my kids and my mom, Taking care of my kids has been too much on her physically and her health is worsening. Without me being able to go home to care for them they may be split apart or put into the state system which would be worse for them. My choices have put them and my mom through so much but other than committing this crime, I am a good mom and have always taken care of and provided for my kids. Please approve my request so I can take care of my kids and my mom.

The fourth part of my request pertains to post-conviction rehabilitation. The discretion federal judges hold at initial sentencing hearings also remains with sentencing modifications. In Peppers v. USA, 562 US 476, 131, St. Ct. E213 L. Ed 2d 7393 1229, 179 L. Ed. 2d 196, it was ruled during resentencing that a district court may consider evidence of a defendant's rehabilitation since his/her prior sentencing. See Pepper. Since being incarcerated at FPC Alderson, I have reduced my recidivism level through programming and completing 6 ACE classes. I have maintained a low-minimum security level and have completed several First Step Act classes including: Drug Ed, Houses of Healing, USPO workshop, conflict resolution, safety orientation, Growth mindset, circle of strength, Parent or not to parent, Phase 1, National Parenting Program, Women Basic Finance, Women in the Workplace, healthier me, Understanding Feelings, PEER, Resolve Workshop: Trauma in Life, Money Smart, and

Calculator ACE class. I'm currently enrolled in Threshold, Women's Relationships, and Women Giving Back and I am on the waitlist for 18 other FSA programs. I have also maintained full-time employment through the education department as a GED and ESL teacher aide since July 2023. Additionally, I have taken mail-away Bible courses and obtained certificates of completion all of which are included with this request. In USA v. Ivanna Yartizell Rodriguez, the court pointed to evidence of a lengthy pretrial release period without incident and no incident reports during incarceration to support the approval of compassionate release in their decision. This deemed her not a public safety issue 3553(a). I was on pretrial release for 20 months without incident and had a favorable report from my pretrial officer who also said the Greenville, nc probation office could take me on under FLM if it was requested. I also have not had any incident reports during incarceration which is weighs in my favor under the public safety factor category that must be considered when granting compassioante release.

My last supporting argument for my request is regarding my eligibility ~~for my request is regarding my eligibility~~ for amendment 821, the Second Chance Act, and projected First step act credit under the first step act. In Carlos Concepcion, 142, S.Ct. 2389; 213 L. Ed. 2d 731; 2022 US Lexis 3070; 29 Fla. L. Weekly Fed. S 536 No 20-1650 it was ruled that the First Step act allows district courts to consider intervening changes in law or fact in excercising their discretion to reduce a sentence pursuant to the First Step Act. amendment 821 part A, regarding status points was made retroactive and would change my guidelines range. I did receive a downward departure at sentencing which, if granted, the same departure, my sentence would be lowered because my guidelines would be lower. I am asking for this to be considered when ruling on my request. Under the Second Chance Act, inmates are eligible for 10% home confinement under 3624c(1) and an additional up to 12 months under

up to 16.8 months CCC placement on home confinement, halfway house or FLM (Federal Location Monitoring) which my pretrial officer already said the Greenville, nc probation office could accept me for monitoring if requested. I requested this maximum placement with my unit team and should be given it as I am not a safety concern and have had no incident reports. Finally, regarding projected FSA credits, there was a bulletin sent out from BOP through Trulinks in November (see attached which explained projected credits and how they were calculated and used as a tool to get inmates into CCC placement sooner. Based on this calculation tool and bulletin, my earliest possible pre-release placement date without the additional second chance act time under 3624c(2) would be August 2024. With all allowable second chance act placement under 3624c(1) and 3624c(2) and all the projected FSA credits my earliest possible pre-release placement/transfer to CCC date would be November 3, 2023. With only 9 months of the possible 12 months allowed under 3624c(2) it would put my transfer to CCC placement date February 3, 2024 (calculation sheet included). I understand pre-release placement is serving part of my sentence in home confinement, halfway house, or through FLM and is still BOP custody according to 18 U.S.C 3621b and BOP program statement 7310.04. As such, I am still serving my sentence and earning FSA credits, but I am able to care for myself and my family which I am unable to do while in FPC Alderson. I am therefore asking that you consider these factors as well in making your decision on my compassioante release request.

In making this request for compassioante release I am in no way down playing the seriousness of my crime. I made a terrible choice and will suffer with the consequences of those choices for the rest of my life in that I can no longer teach in the public school system or hold my company's General Contractor license. I have also lost many [illegible] rights and abilities as a resultof my actions that I can never regain.

I've lost time with my childrenand have caused my family a lot of pain. I deeply regret my actions and have learned a lesson that I will never repeat. I have been very proactive and dedicated to programming and rehabilitating myself. I am no threat to the community and need to be able to start repaying my debt, obtain the proper medical care, and I need to be able to care for my kids and my mom physically, mentally, emotionally, and financially. I have exhausted the administrative remedy process through bop/FPC Alderson and therefore humbly ask the Honorable court to approve my compassionate release request. I believe I meet the grounds for other extraordinary and compelling reasons given my health (which also puts me at a higher risk of contracting COVIID) and FPC Alderson's inability to meet my care needs, my kids' health and their needs, and my mom's inability to meet their needs as well as needing care for herself. In addition, My eligibility for amendment 821 , full second chance act including both parts (3624c(1) and 3624c(2)), and the projected FSA credits that would allow me to have already been placed in pre-release custody warrant to be included in the decision to grant my compassionate release request.

I humbly ask this Honorable Court to grant my compassionate release request for the reasons mentioned herein as well as impose any special terms the court sees fit such as extended period of supervised release, home detention or FLM, mental health treatment, etc.

I would also like to ask the court for expedited review/consideration and approval of this compassioante release request and permission to file in forma pauperis as I currently only make $45-50 per month working and my FRP is $223 per month. If needed I would also like to ask for the court to appoint representation for me.

Respectfully Submitted
Amber Bruey
Amber Bruey 12/20/23

RELEASE PLAN

Upon release I plan to reside at home in NC:

75 Holloman Farm Rd. Farmville, NC 27828

which is the home I resided in during pretrial and was approved then by probation.

I will live with my kids: Andrew Bruey (6/16/09), Aidan Bruey (7/12/11) Avery Bruey (5/16/13), Asher Bruey (10/30/19) and Autumn Bruey (1/21/23)

My mom, Vivian Higginbotham (8/18/66) will also live in the home with me.

I have health insurance through BCBSNC for myself and my kids that the premium was paid up before I entered custody to cover medical expenses and copays for myself and my kids.

I will obtain employment as soon as I am able to be released and will promptly schedule medical appointments that I need.

I will work, care for my kids and my mom and remain current on all debt.

I have transportation as well.

CIP

Roger Handberg

Trent Reichling

Judge Thomas Barber

Jim Lappan

Please allow me to file in forma pauperis as my current income is only $45-50 per month at FPC Alderson and assets have not changed at home.

Amber Bruey

Amber Bruey

12/20/23