

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

2023 APR 18 PM 3:41
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

RECEIVED

UNITED STATES OF AMERICA

v.

CASE NO. 2:22-cr-39-SPC-NPM

DANIEL JOSEPH TISONE

**UNITED STATES' RESPONSE IN OPPOSITION TO
DEFENDANT'S EMERGENCY MOTION TO EXTEND TIME
TO REPORT TO FEDERAL PRISON FOR MEDICAL REASONS**

On the eve of his surrender to the Bureau of Prisons to serve an 87-month sentence, the defendant Daniel Tisone (Tisone) requests a 30-day delay of his surrender for previously undisclosed medical reasons. The United States opposes Tisone's request for delay.¹ Until now, the day before his surrender, Tisone had not alerted or made mention to the Court, government, or United States Probation of the medical history he claims in his motion. The government questions the legitimacy and necessity of Tisone's request and, therefore, respectfully requests that Tisone's emergency motion be denied.

BACKGROUND

On August 26, 2022, Tisone pleaded guilty to committing Wire Fraud (18 U.S.C. § 1343), Bank Fraud (18 U.S.C. § 1344), Illegal Monetary

¹ Tisone's emergency motion is believed to have been filed under seal and the government does not have a docket number to reference at this time.

Transactions (18 U.S.C. § 1957), and Possessing Ammunition as a Convicted Felon (18 U.S.C. § 922(g)(1)). Docs. 54 and 55. The crimes, related to Paycheck Protection Program (PPP), Economic Injury Disaster Loan (EIDL), and Main Street Lending Program (MSLP) fraud committed by Tisone. Doc. 19. Tisone, who was and is a felon, was also found in possession of hundreds of rounds of ammunition. Docs. 19 and 55. On February 13, 2023, the United States Probation Office (USPO) filed Tisone's final Presentence Investigation Report (PSR), which calculated his sentencing guidelines range as 108 to 135 months of imprisonment. PSR ¶ 184.

Before Tisone's sentencing, the government filed a motion for downward departure, which requested a two-level reduction of Tisone's offense level because of his cooperation. (Doc. 88). At Tisone's sentencing on February 21, 2023, the Court granted the government's motion and sentenced Tisone to 87 months of imprisonment. Docs. 91 and 93. After considering Tisone's request for a voluntary surrender date 90 days out, the Court allowed Tisone to self-surrender on April 19, 2023, no later than 2pm. Following Tisone's sentence, he was designed by the Bureau of Prisons (BOP) to FPC Pensacola.

ARGUMENT

Tisone now seeks a 30-day extension of his prison report date so that he can obtain lab work and a medical scan. The request comes after Tisone visited his doctor this morning (April 18, 2023), the day before he is required to surrender to BOP in Pensacola, FL. The government considers the timing of Tisone's request and claimed medical condition to be suspect.

Until today, Tisone has not made the government, the Court, or USPO aware of any history of the medical issue to which he now claims took place and believes it may relate to. In fact, Tisone's PSR makes no mention of the medical procedure he claims to have had two years ago in his motion. *See* PSR at ¶¶ 123-132. The nature of the procedure described by Tisone now is something the government would think Tisone would disclose in his PSR. Moreover, Tisone has not submitted any medical records to the Court or the government under seal that show the procedure was performed.

The medical documentation Tisone provides in support of his request only stands for a doctor's referral to have lab work and a CT scan performed, in light of his complaint, after his visit this morning. Nowhere in the records does the doctor indicate the situation is dire, or that Tisone is suffering from a serious medical episode or emergency. Lab work and a CT scan are a reaction to Tisone's sudden complaint, not the result of any actual diagnosis. Moreover,

Tisone has not visited an emergency room or sought emergency medical care for his claimed serious medical issue. It is clear that BOP is equipped to evaluate Tisone's medical issues and order diagnostic evaluation and treatment as necessary, after he reports on April 19th. In light of the lack of an objective basis to rely upon Tisone's last-minute medical claim and BOP's ability to care for Tisone, his report date should remain the same.

CONCLUSION

The United States respectfully requests that the Court deny Tisone's emergency motion to extend time to report to federal prison.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Jervis Wise
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/s/ Trent Reichling
Trenton J. Reichling
Assistant United States Attorney