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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.
14

15 BERNARD TURK,

16 Defendant.
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Case No. 22-cr-00061-JVS

SUPPLEMENT TO BERNARD
TURK'S SENTENCING BRIEF

Sentencing Date: November 18, 2022
Time: 9:30 a.m.
Place: First Street – 8A

1 Bernard (“Bernie”) Turk, through counsel, submits the accompanying
2 supplement to the defense’s sealed sentencing brief (ECF 29), and in further support of
3 the defense’s request for sentencing leniency.

4 DATED: November 11, 2022 LAW OFFICES OF EVAN A. JENNESS

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7 By: /s/ Evan A. Jenness
8 EVAN A. JENNESS

9 Counsel for Defendant
10 BERNARD TURK
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SUPPLEMENT TO SENTENCING BRIEF

After receiving the evaluation of Bernie Turk by Daniel Truong, M.D. (ECF 29, Exh B (sealed)), government counsel contacted the U.S. Bureau of Prisons (“BOP”) for information regarding its ability to provide medical care for Bernie Turk if he were to be incarcerated.

On or about October 24, 2022, the BOP responded that it “can accommodate[] [Mr. Turk] in a BOP Medical Care Level 3 or 4 center (specially where we have 24 hours nursing staff) and we have ability to care for this individual. Special considerations are: Botulinum toxin injection and Artane (Trihexyphenidyl) approval.”

The BOP physician who provided the preceding information *also* candidly acknowledged to government counsel that “obtaining approval for a non-formulary treatment in BOP is not easy!” (Punctuation as in original).

The BOP’s response validates concerns reflected in the report of Dr. Truong, and in the letter from Bernie Turk’s treating health care provider, Kaiser Permanente, and further supports leniency for several reasons.

First, the possibility that Mr. Turk would *not in fact receive* his needed treatment since “it is not easy” for BOP physicians to obtain approval for such non-formulary medications. While the BOP physician stated, “we have the ability to care for this individual,” he did not assure that the BOP would in fact provide the needed care. Indeed, he specifically warned of the administrative challenge that treating Mr. Turk would present.

Second, the potential for a *delay* in the BOP providing Mr. Turk’s required medical treatment because of the need to obtain administrative approval for the non-formulary treatment.

The lack of treatment, or a material delay in receiving the needed treatment, would have seriously adverse effects on Mr. Turk. As Dr. Truong stated in his report, “Without such treatment, [Mr. Turk] would have muscle spasm resulting in pain.”

1 Similarly, Mr. Turk's treating providers at Kaiser Permanente advised:

2 "Without the injections, he would ultimately regress and return to having severe
3 pain and dystonic movements of the neck. . . . These abnormal movements of
4 the neck cause severe increased pain and force his head into awkward
5 positions."

6 (*Id.*, Exh E).

7 Third, there are no BOP Level Care Level 3 or 4 facilities in our region, or even
8 anywhere close. See <https://www.bop.gov/locations/list.jsp> (the closest medical
9 facility to Los Angeles appears to be Texas; bed space availability is unclear).

10 Therefore, if incarcerated, Mr. Turk would suffer the additional effect of *social*
11 *isolation* from his family. Mr. Turk's wife of more than 50 years, Esther Turk,
12 continues to recover from open-heart surgery, and her health remains in fragile.
13 Therefore, this would be a particularly hard time for the Turks to be separated.

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