

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

THE UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
v.	)	Case No. 6:21-cr-10073-EFM
	)	
MICHAEL R. CAPPS,	)	
	)	
<i>Defendant,</i>	)	
_____	)	

ORDER

This matter comes before the Court on Defendant Michael Capps' Unopposed Motion for Extension of Time to Voluntarily Surrender (Doc. 231). He asks this Court to extend his voluntary surrender date from November 21, 2024, to December 31, 2024, or later, to allow him to address medical matters before his incarceration. The government does not oppose the request. The Court grants Capps' Motion.

I. Factual and Procedural Background

On May 12, 2023, the Court sentenced Mr. Capps to 27 months of imprisonment. On June 23, 2023, the Court granted Mr. Capps' continued release pending his appeal.

On August 13, 2024, the Tenth Circuit issued a written decision affirming the judgment in this case, and it denied his petition for rehearing on October 15, 2024. The mandate issued on October 24, 2024.

On October 27, 2024, Mr. Capps moved this Court to vacate the order granting his release pending appeal. This Court granted the motion the next day.

Since the Tenth Circuit affirmed his judgment, Mr. Capps has been acting diligently to get all of his personal and medical affairs in order before he must report to the Bureau of Prisons

(BOP). In particular, he has made a series of appointments for various medical issues, including the following:

1. Mr. Capps is a veteran with a PTSD diagnosis and receives regular treatment from the VA. He has two final appointments scheduled with the VA on November 28, 2024, and December 20, 2024, to help prepare him for prison and ensure that his medical records are updated and forwarded to the Bureau of Prisons.
2. Mr. Capps has an appointment scheduled for December 12, 2024, with his Optometrist to receive new glasses with a prescription adjustment.
3. Mr. Capps has an appointment on December 18, 2024, with his endocrinologist for hormone treatment.
4. Mr. Capps has an appointment scheduled for December 18, 2024, with his podiatrist to receive new prescription inserts.
5. Mr. Capps has an appointment with his internal medicine doctor for his annual physical and bloodwork on December 18, 2024. Following this exam, his doctor will need additional time to process and review the test results to ensure his health needs are managed appropriately, and his medications are compatible with those available on the Bureau of Prisons' formulary.
6. Mr. Capps has an Orthodontist appointment scheduled for December 30, 2024. Mr. Capps has periodontal disease, and this appointment is aimed at treating his condition thoroughly to give him time for the BOP to work him into their dental schedule.
7. Mr. Capps has a current finger injury requiring an X-ray exam and treatment. Dates for follow-up are still pending, but two appointments are expected prior to end of year.

Mr. Capps intended to attend these appointments and take care of these issues prior to his surrender.

On Friday November 15, 2024, Mr. Capps received his designation letter, which orders him to surrender to the Florence Colorado Satellite Camp on Thursday, November 21, 2024. The BOP sent the letter on November 1, 2024, but failed to address it to his updated address. As a result, Mr. Capps has been given only 6 days' notice of his report date, which does not give him sufficient time to resolve his medical issues.

Accordingly, Mr. Capps moved this Court to extend his surrender date to December 31, 2024.

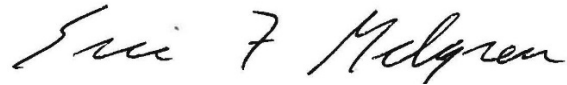
II. Analysis

This Court has the authority to extend Mr. Capps' surrender date under 18 U.S.C. § 3143. *See United States v. Martinez*, No. 23-50534, 2023 WL 5316497, at *1 (5th Cir. Aug. 14, 2023). The requested extension will allow Mr. Capps to finalize his medical preparations. Granting this request serves the interests of justice by facilitating a smoother transition into the BOP system and ensuring Mr. Capps' personal and medical needs are addressed, which is a proper basis for extending a self-surrender date. *See, e.g., United States v. Gregory*, No. 17-cr-20079, 2021 WL 1978630 (D. Kan. May 18, 2021) ("Exercising its discretion, the Court finds that Defendant's medical circumstances warrant his request for additional time to self-surrender until September 1, 2021. Under the circumstances set forth in his motion, a three-month delay is reasonable and necessary and will not prejudice the government.").

The Court therefore grants Capps' Motion and extends his self-surrender date to December 31, 2024, or later as determined by the BOP.

IT IS THEREFORE ORDERED that Defendant's Unopposed Motion for Extension of Time to Voluntary Surrender (Doc. 231) is **GRANTED**.

Dated this 19th Day of November, 2024.

A handwritten signature in black ink, reading "Eric F. Melgren". The signature is written in a cursive, flowing style.

ERIC F. MELGREN
CHIEF UNITED STATES DISTRICT JUDGE