

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

**CRIMINAL ACTION
NO. 15-496-9**

v.

ANTHONY HALL

MEMORANDUM OPINION

Defendant Anthony Hall was convicted by a jury of one count of conspiracy to distribute 100 grams or more phencyclidine, in violation of 21 U.S.C. §§ 846 and 841(a)(1), (b)(1)(A), and of two counts of possession with intent to distribute phencyclidine, in violation of 21 U.S.C. § 841(a)(1). He is currently detained at the Federal Detention Center (“FDC”) in Philadelphia pending sentencing. Hall, who states that he was diagnosed with renal failure in 2010, “is obese[,] and suffers from hypertension,” moves for release from detention and placement in home confinement pending sentencing. He makes his request pursuant to the Eighth Amendment of the United States Constitution,¹ in consideration of the COVID-19 pandemic and the risk posed by COVID-19 to persons with underlying health condition. Hall argues that his current conditions of confinement violate the Constitution by cruelly exposing him to the possibility of contracting COVID-19.

The Eighth Amendment prohibits the infliction of “cruel and unusual punishment.” U.S. Const. amend. IV. But “the Amendment proscribes more than physically barbarous punishments;” it also establishes an affirmative obligation on the government “to provide medical care for those whom it is punishing by incarceration.” *Estelle v. Gamble*, 429 U.S. 97,

¹ Though the government argues Hall is not entitled to release pursuant to 18 U.S.C. § 3143(a)(2), Hall has not raised a statutory argument.

102-03 (1976). “[N]ot every governmental action affecting the interests or well-being of a prisoner is subject to Eighth Amendment scrutiny[, however]. After incarceration, only the unnecessary and wanton infliction of pain constitutes cruel and unusual punishment. . . .”

Fuentes v. Wagner, 206 F.3d 335, 344 (3d Cir. 2000) (internal quotations and citations omitted).

Specifically, “[w]hen an Eighth Amendment claim arises in the context of a challenge to conditions of confinement, [a reviewing court] must determine if prison officials acted with deliberate indifference to the inmate’s health. The objective inquiry is whether the inmate was denied the minimal civilized measure of life’s necessities.” *Id.* at 345.

As of the filing of Hall’s motion, there have been no reported cases of COVID-19 in the FDC, *see* <https://www.bop.gov/coronavirus/>, and the Bureau of Prisons (“BOP”) has instituted strict containment measures, such as mandatory quarantine, regular health checks, limits on inmate movement, and limitations on entry by outside individuals, *see* https://www.bop.gov/resources/news/20200313_covid-19.jsp.² In light of these measures, and in light of the fact that the City of Philadelphia to which Hall requests he be released has over 9,214 confirmed cases of COVID-19 and 365 deaths of COVID patients and rising as of the writing of this opinion, *see* <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/>, Hall has not shown that the BOP’s efforts have been deliberately indifferent, or even that he “has a higher risk of contracting COVID-19 in custody than when released,” *United States v. McDonald*, 2020 WL 1659937, at *3 (D. Nev. Apr. 3, 2020). Hall has also not shown that “the [FDC] would be unable to render treatment to [him] if he were to become infected,” *United States v. Michael Calvert*, 2020 WL 1847754, at *5 (D. Kan. Apr. 13, 2020), or that he has been otherwise “denied

² Further, though Hall “contends that [the FDC’s] practices do not [adequately] protect against the spread of COVID-19 . . . ,[e]ven if true, this argument fails to recognize the unfortunate reality that public health officials are struggling to contain the spread of the virus in the general public as well.” *United States v. Gray*, 2020 WL 1554392, at *2 n.3 (D. Md. Apr. 1, 2020).

the minimal civilized measures of life’s necessities,” *Wagner*, 206 F.3d at 345. Consequently, Hall has not demonstrated that his continued detention at the FDC constitutes cruel and unusual punishment in violation of the Eighth Amendment. *See Price*, 2020 WL 1694347, at *2 n.3 (denying sentence reduction pursuant to the Eighth Amendment where there was “no reason . . . to believe that the facility where [defendant was] incarcerated [was] not taking reasonable precautions to prevent spread within the facility . . . nor . . . that [defendant] would not be provided with appropriate medical care if she were unfortunate enough to join the hundreds of thousands of people who have been inflicted with this virus”); *United States v. Gray*, 2020 WL 1554392 (D. Md. Apr. 1, 2020) (same); *Calvert*, 2020 WL 1847754, at *5 (rejecting Eighth Amendment for temporary pretrial release where there were “no known cases of COVID-19 at [defendant’s facility]; and there was no evidence that the facility would be unable to render treatment to [defendant] if he were to become infected”); *McDonald*, 2020 WL 1659937, at *3 (rejecting Eighth Amendment for temporary pretrial release where there was “no evidence that [prison was] unable to provide sufficient medical treatment to Defendant in light of him contracting COVID-19 in custody . . . [or] that Defendant has a higher risk of contracting COVID-19 in custody than when released”).³

Defendant’s request to be released to home confinement will be denied.⁴

An appropriate order follows.

³ Though not Eighth Amendment cases, the Third Circuit’s decisions in *Raia* and *Roeder* further support this conclusion. *See United States v. Raia*, 2020 WL 1647922, at *2 (3d Cir. Apr. 2, 2020) (explaining that while COVID-19 presents “risks” to inmates, “the mere existence of COVID-19 in society and the possibility that it may spread to a particular prison alone cannot independently justify” release, “especially considering [Bureau of Prison’s (“BOP”)] statutory role, and its extensive and professional efforts to curtail the virus’s spread”); *United States v. Roeder*, 2020 WL 1545872, at *3 (3d Cir. Apr. 1, 2020) (“[T]he existence of some health risk to every federal prisoner as the result of this global pandemic does not, without more, provide the sole basis for granting release to each and every prisoner within our Circuit.”).

⁴ In the alternative, Hall requests a hearing. Hall has not identified any authority for the proposition that he entitled to a hearing, “and the Court is able to resolve the motion without a hearing or oral argument.” *United States v. Loveings*, 2020 WL 1501859, at *3 (W.D. Pa. Mar. 30, 2020) (deciding request for temporary release under 18 U.S.C. § 3142(i) on the briefs).

April 20, 2020

BY THE COURT:

/s/ Wendy Beetlestone

WENDY BEETLESTONE, J.

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ORDER

AND NOW, this 20th day of April, upon consideration of Defendant's Motion for Bail (ECF 982) and the Government's Response thereto (ECF 983), **IT IS ORDERED** that this motion is **DENIED**.

BY THE COURT:

/s/ Wendy Beetlestone

WENDY BEETLESTONE, J.