

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	No. 19-CR-10080
)	
ELIZABETH HENRIQUEZ,)	
Defendant.)	
)	

RENEWED MOTION TO REDUCE SENTENCE UNDER 18 U.S.C. § 3582

The Court previously denied Elizabeth Henriquez’s motion for a reduction of her sentence under 18 U.S.C. § 3582, but it invited her to renew her motion if the COVID-19 pandemic does not abate as the Court anticipated it would when it originally imposed its sentence. For the reasons explained below, we are at this time renewing Elizabeth’s motion for relief and requesting that the Court reduce her term of imprisonment by seven weeks.¹ We have met and conferred with the government, who opposes the request.

Elizabeth’s case manager at FCI Dublin recently informed Elizabeth that, absent any modification of her sentence, she will be released from prison on January 7, 2021. The case manager also informed Elizabeth, however, that she will be required to spend 21 days in “exit quarantine” prior to her release. This “exit quarantine” is required because, in the opinion of the prison officials at FCI Dublin, the COVID-19 pandemic has not abated and continues to pose a grave public health risk to the citizens of California.²

¹ This Court’s statutory jurisdiction to grant this motion is undisputed, for the reasons discussed in our prior §3582 motion.

² Our understanding is that, in the past several weeks, at least six inmates at FCI Dublin tested positive for COVID-19. Although the BOP thankfully reports that all of these inmates have recovered, it underscores the risk that COVID-19 continues to present to inmates at FCI Dublin

The conditions of this “exit quarantine” will be analogous to solitary confinement. Elizabeth will be allowed out of her tiny cell for only 10 minutes per day, three days per week, to shower and change clothes. She will be required to eat all her meals in her cell. She will have no access to the prison commissary. She will have no time outdoors. She will have no ability to electronically communicate with her family or her legal counsel. The only difference between these “exit quarantine” conditions and solitary confinement is that Elizabeth may have a cell mate, which in our opinion is even worse than being alone because it will deprive Elizabeth of any privacy (*e.g.*, no privacy when using the toilet) and make her tiny cell even more physically cramped.³

When Elizabeth reported to FCI Dublin on June 29, 2020, she was fully aware that she would be required to spend her first 14 days at the facility in “entrance quarantine,” and she was willing to endure those harsh conditions as the price of beginning her term of imprisonment on schedule.⁴ But Elizabeth did not know or expect that she also would be subject to an “exit quarantine,” let alone one lasting 21 days. To the contrary, consistent with the Court’s initial expectation that the COVID-19 pandemic would have abated by the fall of 2020 (if not long before that), Elizabeth reported to FCI Dublin reasonably expecting that she would *not* be subject to an “exit quarantine.” Undersigned counsel shared Elizabeth’s expectations.

and the reasons why the facility’s officials have decided that inmates must be subject to an “exit quarantine” before being released back to the community.

³ Although the government has advised us that Elizabeth’s cell mate (if any) during this 21-day quarantine period will be an inmate of Elizabeth’s low-security camp, it is Elizabeth’s understanding that her cell mate may be a prisoner from the higher-security prison to which the low-security camp is adjacent.

⁴ As we noted in a prior submission, Elizabeth’s “entrance quarantine” unexpectedly lasted more than 21 days for reasons outside of her control.

By the time she leaves FCI Dublin, Elizabeth will have spent more than 6 weeks—approximately 20% of her seven-month term of imprisonment—in quarantine conditions that are analogous to solitary confinement. Neither Elizabeth nor the Court could reasonably have anticipated that this would be the case, either on March 31, 2020 (when the Court imposed its sentence) or on June 29, 2020 (when Elizabeth reported to FCI Dublin).

The government cannot plausibly argue that Elizabeth arrived at FCI Dublin knowing (or even reasonably expecting) that she would be subject to a 21-day “exit quarantine.” Accordingly, we respectfully request that the Court afford Elizabeth roughly the same sentencing consideration that the Court provided to Toby MacFarlane. Specifically, the Court reduced Mr. MacFarlane’s prison sentence by approximately two months, in consideration of the two weeks in “exit quarantine” that he unexpectedly was required to serve before being released from FCI Tucson.⁵ Consistent with that precedent, we request that, in light of the 21 days of “exit quarantine” to which it is now clear Elizabeth will be subject, the Court reduce Elizabeth’s term of imprisonment by seven weeks.

Even with a seven-week reduction of her sentence, Elizabeth’s term of imprisonment will still stand at more than 5 months. This is longer than the term of imprisonment that the Court imposed on Michelle Janavs, who we understand was released from FCI Bryan and transferred to home confinement less than *six weeks* after arriving to the prison, and longer than Mr. MacFarlane’s modified term of imprisonment. Indeed, even with the seven-week reduction,

⁵ In Toby MacFarlane’s case, this Court found that Mr. MacFarlane’s two-week period of solitary confinement was an “extraordinary and compelling circumstance” that warranted a roughly seven-week reduction in his term of imprisonment. The Court reasoned that “MacFarlane’s two-week confinement in solitary quarantine in a higher-security facility is the equivalent of two months in the Camp to which he was originally assigned.” *United States v. MacFarlane*, 438 F. Supp. 3d 125, 127 (D. Mass. 2020).

we believe that Elizabeth will have spent more time in federal prison than any “Varsity Blues” parent other than Douglas Hodge, who used Rick Singer’s services for at least *four children* over a period of a decade.

A seven-week reduction would move the start of Elizabeth’s 21-day “exit quarantine” to approximately October 28, 2020, and her release date up to approximately November 19, 2020, which would allow her to return home in time to spend Thanksgiving with her two daughters, whom she has not seen since June.

CONCLUSION

For the foregoing reasons, we respectfully request that the Court reduce Elizabeth’s seven-month term of imprisonment by seven weeks.

DATED: October 20, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Aaron M. Katz, hereby certify that the foregoing document was served through the ECF system on all registered participants in this action on October 20, 2020.

/s/ Aaron M. Katz
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