

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

JAMES GOMES

Defendant.

Cr. No. 18-110-JJM-PAS-1

ORDER

James Gomes has petitioned this Court under 18 U.S.C. § 3582(c)(1)(A)(i) for compassionate release. ECF Nos. 137, 141. The government objects. ECF Nos. 140, 143.

Mr. Gomes seeks release claiming that he is at an increased risk for serious harm if he were to contract COVID because he suffers from diabetes, hypertension, asthma, obesity, and seasonal allergies. ECF No. 137 at 3. The government objects, asserting that there are no extraordinary and compelling reasons to justify release because Mr. Gomes has received the first shot of the Moderna COVID vaccine and is expected to receive the second shot any day. Mr. Gomes replies by citing news articles that question whether the vaccine is as effective with folks with co-morbidities as those in the general population. ECF No. 141 at 1-3.

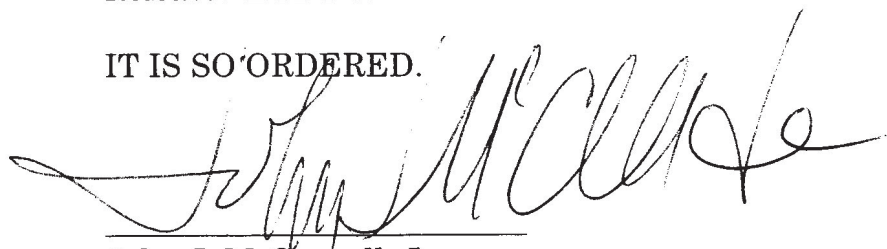
The news articles that Mr. Gomes cites raise the possibility that the vaccine may not be as effective for people who are obese.¹ However, authorities like the

¹ “[R]esearchers are concerned the vaccines *might not* provide obese individuals with *as much protection* as those who aren't overweight.” Alexandra

Center for Disease Control and Prevention (CDC) have stated: "Based on evidence from clinical trials, the Moderna vaccine was 94.1% effective at preventing laboratory-confirmed COVID-19 illness in people who received two doses who had no evidence of being previously infected. The vaccine appeared to have high effectiveness in clinical trials (efficacy) among people of diverse age, sex, race, and ethnicity categories and among persons with underlying medical conditions."
<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines/Moderna.html> (last visited Mar. 12, 2021).

In light of this, the Court finds that there are not extraordinary or compelling reasons to grant Mr. Gomes compassionate release now that he has been vaccinated. The articles submitted by him fail to sufficiently demonstrate that his medical conditions reduce vaccine efficacy to the degree that compassionate release would be appropriate. Accordingly, the Court DENIES Mr. Gomes' Motion for Compassionate Release. ECF No. 137.

IT IS SO ORDERED.



John J. McConnell, Jr.
Chief United States District Judge

March 12, 2021

Ellerbeck, Obese Americans Suffer Disproportionately from the Coronavirus, Washington Post, (Jan. 6, 2021), at <https://www.washingtonpost.com/politics/2021/01/06/health-202-obese-americans-suffer-disproportionately-coronavirus> (emphasis added).