

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION  
FELONY BRANCH**

<b>UNITED STATES,</b>	:	
	:	
<b>v.</b>	:	<b>Case No. 2000 FEL 3591</b>
	:	
<b>NAKIA ROY,</b>	:	<b>Judge Danya A. Dayson</b>
	:	
<i>Defendant.</i>	:	

**COMPASSIONATE RELEASE ORDER**

This matter comes before the Court on Nakia Roy’s *Pro Se* Motion for Compassionate Release Pursuant to D.C. Code §24-403.04, filed April 21, 2022, the Supplement to the Motion filed October 11, 2022, the Opposition filed December 12, 2022, and the Reply filed December 27, 2022. It is for good cause shown that the motion for compassionate release is **GRANTED**.

**I. Factual background and Procedural History**

This case arises from Mr. Roy’s convictions for second-degree murder while armed, four counts of assault with a deadly weapon, five counts of Possession of Firearm during a Crime of Violence, one count of Carrying a Pistol Without a License, and one count of Simple Assault.<sup>1</sup> Mr. Roy was 26 years old at the time of the incident that resulted in the convictions.

The incident occurred on June 12, 2000, in the early morning when Mr. Roy got into an altercation with his ex-girlfriend and mother of his child, Nacheta Harris, and her then-boyfriend, Mr. Settles. *Roy v. United States*, 871 A.2d 498,502 (D.C. 2005). Mr. Roy had been waiting in an alley for Ms. Harris and Mr. Settles to arrive at Ms. Harris’ cousin’s house. *Id.* Upon arrival, Mr.

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<sup>1</sup> On April 7, 2005, the Court of Appeals affirmed all of Mr. Roy’s convictions except for the multiple PFDCV, as the Court found that the charges merged. *Roy v. United States*, 871 A.2d 498, 510 (D.C. 2005).

Roy ran at them. Mr. Settles fled the scene and left Ms. Harris and his motorcycle. *Id.* Mr. Roy punched Ms. Harris in the face, then ran after Mr. Settles firing three or four shots at him. *Id.* Mr. Settles managed to escape. Mr. Roy returned to Ms. Harris, punched her again, and departed to Tenth Place. *Id.*

Mr. Roy then went to Tenth Place, followed by Mr. Settles shortly thereafter. *Id.* It is disputed what next transpired, but Mr. Settles in the interim had retrieved a gun and was with a few of his friends in a Dodge Intrepid. *Id.* Mr. Roy and Mr. Settles then exchanged gunfire. *Id.* During the altercation, a stray bullet struck and killed Ms. Grace Edwards. At trial, Mr. Roy was convicted of second-degree murder.<sup>2</sup>

On February 15, 2002, Mr. Roy was sentenced to 25 years plus 180 days to life. Mr. Roy has been incarcerated for over 22 years. Before the convictions arising from this case, Mr. Roy had multiple juvenile offenses and adult arrests. He had three adult convictions, two of which were later reversed. He has incurred three disciplinary infractions since incarceration in the BOP, all of which were non-violent.

While serving his sentence, Mr. Roy has taken over 40 classes. Hartnett Decl., Ex. 4. Mr. Roy has also completed rehabilitative programs, such as anger management and victim impact. Mot. at 3. Mr. Roy also received a “low” BOP recidivism score.

Mr. Roy has provided a release plan and intends to live with his mother in Clinton, Maryland, and work as an electrician for his uncle. Supplemental Decl. of Cora L. Roy-Stevens ¶¶ 10, 13.

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<sup>2</sup> This Court anticipates vacating the jury’s verdict because of a crucially flawed jury instruction, which the Court concludes was not harmless. *Fleming v. United States*, 224 A.3d 213, 227 (D.C. 2020). However, given the factual basis of Mr. Roy’s conviction, the Court assesses this Motion based on the murder conviction that stands as of the date of this order.

Mr. Roy sought compassionate release in 2022 through counsel. Mr. Roy cites his chronic kidney disease and hypertension as extraordinary and compelling reasons warranting release. Declaration of Robert B. Greifinger MD (“Greifinger Decl.”) ¶¶ 31, 35, 38. Furthermore, Mr. Roy argues that he clearly is rehabilitated and would not pose a danger to the community. The Court agrees.

## **II. Legal Standard**

Mr. Roy seeks relief under the COVID-19 Response Supplemental Emergency Amendment Act of 2020 (“COVID-19 Emergency Act”), D.C. Code §24-403.04(a). The COVID-19 Emergency Act provides in relevant part:

(a) Notwithstanding any other provision of law, the court shall modify a term of imprisonment imposed upon a defendant if it determines the defendant is not a danger to the safety of any other person or the community, pursuant to the factors

to be considered in 18 U.S.C. §§ 3142(g)<sup>3</sup> and 3553(a)<sup>4</sup> and evidence of the defendant’s rehabilitation while incarcerated, and:

- (1) The defendant has a terminal illness, which means a disease or condition with an end-of-life trajectory;
- (2) The defendant is 60 years of age or older and has served at least 20 years in prison; or
- (3) Other extraordinary and compelling reasons warrant such a modification, including:

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<sup>3</sup> In evaluating the dangerousness posed by a defendant, the COVID-19 Emergency Act directs judges to consider, in conjunction with evidence of the defendant’s rehabilitation, factors set forth in two federal statutes. Under 18 U.S.C. § 3142(g), the trial court must consider:

- (1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;
- (2) The weight of the evidence against the person;
- (3) The history and characteristics of the person, including—
  - (A) The person’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
  - (B) Whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
- (4) The nature and seriousness of the danger to any person or the community that would be posed by the person’s release . . .

18 U.S.C. § 3142(g).

<sup>4</sup> The judge must also take into consideration the similar list of factors set forth in 18 U.S.C. § 3553(a), which focuses on “the nature and circumstances of the offense and the history and characteristics of the defendant,” 18 U.S.C. § 3553(a)(1); the need for the sentence imposed, *Id.* § 3553(a)(2); the kinds of sentences available, *Id.* § 3553(a)(3); the sentencing ranges and policy statements generated by the Sentencing Commission, *id.* §§ 3553(a)(4)-(5); the need to avoid disparity in sentencing, *Id.* § 3553(a)(6); and the need to provide restitution to victims, *Id.* § 3553(a)(7).

- (A) A debilitating medical condition involving an incurable illness, or a debilitating injury from which the defendant will not recover;
- (B) Elderly age, defined as a defendant who:
  - (i) Is 60 years of age or older;
  - (ii) Has served the lesser of 15 years or 75% of the defendant’s sentence; and
  - (iii) Suffers from a chronic or serious medical condition related to the aging process or that causes an acute vulnerability to severe medical complications or death as a result of COVID-19;
- (C) Death or incapacitation of the family member caregiver of the defendant’s children; or
- (D) Incapacitation of a spouse or a domestic partner when the defendant would be the only available caregiver for the spouse or domestic partner.

D.C. Code §24-403.04(a).

Beyond the four enumerated reasons set forth in subsections (3)(A) through (D) of § 24-403.04(a), the statute provides no guidance as to what “other extraordinary and compelling reasons” might warrant modification of a defendant’s sentence. Based on the statute’s language and structure, as well as judicial interpretations of a similar federal provision, the Court concludes, and the government concedes, that the statute uses the enumerated “extraordinary and compelling reasons” as illustrations of the type of circumstances that can provide the basis for relief, rather than as an exhaustive list intended to limit the possible grounds for compassionate release.

Therefore, the Court is not constrained to consider only the enumerated examples in D.C. § 24-403.04 as a basis for compassionate release. Rather, the court may consider any set of facts and circumstances that it finds to be extraordinary and compelling in deciding whether to grant or deny relief under the statute.

### **III. Analysis**

To grant a motion filed pursuant to the COVID-19 Emergency Act, the Court must find by a preponderance of the evidence that (i) the defendant “is not a danger to the safety of any other person or the community,” D.C. Code § 24-403.04(a), and (ii) the defendant is terminally ill or is

at least 60 years old and has served at least 20 years in prison, or 75% of their sentence or that “[o]ther extraordinary and compelling reasons warrant such a [sentence] modification,” *Id.* § 403.04(a)(1)-(3); *Bailey v. United States*, 251 A.3d 724, 729-30 (D.C. 2021). Thus, while a defendant may present extraordinary and compelling reasons for release, the Court must nonetheless deny his motion if it finds that the defendant has failed to prove he does not pose a danger to the safety of any other person or the community.

A. Mr. Roy Has Proven Extraordinary and Compelling Reasons for His Early Release By a Preponderance of the Evidence.

A petitioner may prove there are extraordinary and compelling reasons for release, notwithstanding the development of the widely available and effective COVID-19 vaccines. A vaccinated petitioner must demonstrate that they remain acutely vulnerable because of COVID-19, despite being vaccinated. The Court of Appeals has provided guidance for considering whether a petitioner has sufficiently demonstrated such a continued acute vulnerability. Where a petitioner has been vaccinated for COVID-19, such a vaccination is a “relevant and permissible consideration in determining whether a prisoner is ‘at risk of severe illness or death from COVID-19.’” *Autrey v. United States*, 264 A.3d 653, 655 (D.C. 2021). Moreover, it is not “just another factor of undifferentiated significance.” *Id.* at 658. “All persons—vaccinated or not, incarcerated or not, with or without underlying medical conditions—are at some risk of serve illness or death from COVID-19; such is our plight. A vaccinated prisoner must show that he remains ‘acutely vulnerable’ to those outcomes despite being vaccinated, and he must do so by a preponderance of the evidence.” *Id.* at 659. “[A prisoner’s vaccination status] is not the end all, be all of that inquiry, which requires a fact-specific analysis.” *Id.* at 655-56.

In order to establish a continued acute vulnerability, despite their vaccinated status, a petitioner bears the burden of proving, by a preponderance of the evidence, both a heightened

likelihood of infection with, and that they remain acutely vulnerable to serious illness or death from, COVID-19. *Page v. United States*, 254 A.3d 1129, 1130 (D.C. 2021); *Autrey v. United States*, 264 A.3d 653, 659 (D.C. 2021). Petitioners cannot meet this burden by mere conclusory statements or “unsubstantiated claims of a vaccinated prisoner's residual risk of severe illness or death from COVID-19.” *Id.* at 8. Along with the petitioner’s alleged particular vulnerability, the Court may consider other factors related to continued vulnerability generally.<sup>5</sup> The Court of Appeals further elaborated on a petitioner’s burden in *United States v. Facon*. 288 A.3d 317 (D.C. 2023). In remanding a trial court’s finding of extraordinary and compelling circumstances as they applied to a vaccinated petitioner who suffered from obesity, Type 2 diabetes, hypertension and hepatitis C in order to apply the correct standard, the Court of Appeals noted that the acute vulnerability:

requires more than an 'above-average' risk, as compared to the general population ‘ — more, clearly, than the motion judge's metric of ‘heightened susceptibility’ — since the word "acute" implies the risk must be ‘serious, urgent, and demanding attention; intensified or aggravated nearly to a crisis, culmination, or breaking point: extreme, severe, critical.’ The motion judge's focus on the uncertainty of the vaccine's effectiveness also *improperly* shifted the burden to the government to disprove that [the petitioner’s] risk factors made him acutely vulnerable to severe illness or death. [I]t is *the prisoner's burden to demonstrate some acute vulnerability* to severe illness or death from COVID-19 despite being vaccinated, not the government's burden to disprove it, and not the trial court's obligation to independently research the matter. To make the necessary showing, ‘a prisoner cannot rely on the mere possibility of residual risks without evidence that those risks actually exist, apply to the prisoner, and rise to the level of an acute vulnerability’ even though the prisoner has been vaccinated. and the judge therefore cannot base a decision to grant a compassionate release motion on ‘the mere possibility of residual risks.’

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<sup>5</sup> The Court of Appeals elaborated: “Those factors include, at least to the extent any litigant introduces it, evidence regarding (1) whether a prisoner is unable to benefit from a vaccine due to being immunocompromised, (2) whether a prisoner’s medical conditions continue to render him acutely vulnerable to severe illness or death despite receiving some benefit from the vaccine, which may implicate vaccine efficacy data for certain subpopulations, (3) emerging research about "long COVID," (4) the availability of booster shots to the extent they are necessary to prevent severe illness or death due to waning immunity, and (5) the rise of new virus variants to the extent they impair the efficacy of the existing vaccines in preventing severe illness or death.” *Autrey*, 658.

*United States v. Facon*, 288 A.3d 317, 336-337 (D.C. 2023) (emphasis added).

Mr. Roy has received three vaccinations – he received his first doses on April 6 and 27, 2021, and received a booster on January 11, 2022. At the April 12, 2023 hearing, Mr. Roy provided uncontroverted testimony that he had requested another booster two months ago and has not received it. Thus, while Mr. Roy is vaccinated, he can still show that he extraordinary and compelling reasons for release if he proves he remains “acutely vulnerable.”

Mr. Roy introduced articles and CDC reports that report vaccinations for individuals with one or more underlying medical conditions are not as effective as it is for those without such conditions. Greifinger Decl. ¶¶ 16-20. In fact, one article found that those vaccinated with two or more underlying medical conditions have a 9% lower efficacy than fully vaccinated individuals with no underlying conditions. Mot. at 10 n.11; Greifinger Decl. ¶ 18.

Mr. Roy argues that he has two primary comorbidities: chronic kidney disease, and hypertension, among other ailments.<sup>6</sup> Geifinger Dec. ¶ 31. The CDC has recognized both hypertension and kidney disease as underlying medical conditions that may worsen the risks associated with COVID-19. In addition to guidance the CDC has published, Mr. Roy has included several studies confirming his heightened risk. He has also provided a declaration by Dr. Geifinger who has spent more than 35 years providing health care for prison populations.<sup>7</sup> Dr. Geifinger found: “Mr. Roy’s multiple medical conditions, his age, and ... the high rates of transmissibility in prison settings generally, coupled with inadequate opportunities to mitigate and the specific facts related to the facility in which Mr. Roy is housed ... [make Mr. Roy]

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<sup>6</sup> The medical documents contain information regarding a knee injury and chondromalacia. Decl. Hartnett, Ex. 11.

<sup>7</sup> Dr. Greifinger has authored over 80 articles and is the author of a paper regarding outbreak control in correctional facilities. Greifinger Dec. ¶ 1.



acutely vulnerable to severe medical complications or death as a result of COVID-19 infection.” Geifinger Decl. ¶ 38. In arriving at this opinion, Dr. Greifinger reviewed Mr. Roy’s medical records and read medical literature regarding COVID, vaccinations, and morbidity. *Id.* ¶ 4.

Mr. Roy pleads, and the government concedes, that he suffers from chronic kidney disease, a condition enumerated in CDC’s guidelines as a condition that will increase the risk of severe illness from COVID.<sup>8</sup> *See* Opp’n at 19. Mr. Roy suffers from stage 3a chronic kidney disease. Stage 3a kidney disease is classified as ‘moderate,’ while Stage 5 requires dialysis. *Id.* ¶ 32. Monitoring the disease by managing hypertension and avoiding COVID can slow or stop the progression of kidney disease. *Id.* Meanwhile, failure to take proper precautions, such as not being infected with COVID or failing to manage hypertension, may lead to end-stage kidney failure. Greifinger Decl. ¶ 32.

The Court next turns to Mr. Roy’s essential primary hypertension. His hypertension is currently treated with three medications. Decl. Hartnett, Ex. 10. The government believes that Mr. Roy’s hypertension does not qualify as an underlying comorbidity constituting a compelling and extraordinary reason for release as it is not connected to heart disease or chronic lung disease. Opp’n at 20. However, the very source cited by the government suggests that the condition can cause life-changing complications, including kidney disease. Hypertension also increases the risk of heart disease. Cleveland Clinic, *Primary Hypertension (Formerly Known as Essential Hypertension)* <https://my.clevelandclinic.org/health/diseases/22024-primary-hypertension-formerly-known-as-essential-hypertension> (last reviewed Oct. 26, 2021). Moreover, courts in this jurisdiction have found the same. *United States v. Mackall*, 2020 D.C.

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<sup>8</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last accessed May 4, 2023).

Super. LEXIS 29, \*23 (“[Defendant] has a medical condition — Hypertension — that makes him acutely vulnerable to suffering severe disease or death should he become ill with COVID-19.”); *see also United States v. Mackall*, 2020 D.C. Super. LEXIS 29, \*25-26 (citing *United States v. Salvagno*, No. 5:02-CR-51 (LEK), 2020 U.S. Dist. LEXIS 109879, at \*18-21 (N.D.N.Y. June 22, 2020)) (“Further, “[w]hat the scientific community knows with relative certainty is that hypertension is one of the most common "comorbidities" in people who experience severe cases of COVID-19, a fact that has been apparent since the early days of the pandemic; indeed, much research identifies [\*26] hypertension as the *most* common comorbidity.”). Furthermore, hypertension is linked to heart conditions – which CDC considers an underlying medication condition – according to the CDC. Greifinger Decl. ¶ 16.

While Mr. Roy’s hypertension appears well-managed, that does not detract from the negative impact on his health and severity of potential illness it could have if he contracted COVID. Furthermore, studies suggest that up to 12.5% of patients with two underlying medical conditions will have either reduced or no immune response to the type of vaccines that Mr. Roy received. Greifinger Decl. ¶ 35. Courts have found that kidney disease combined with other ailments may qualify for extraordinary and compelling reasons for release. *See e.g., United States v. Fillingame*, 587 F. Supp. 3d 1078, 1081 (D. Or. 2022) (granting compassionate release to an individual with stage-3 kidney disease amongst other ailments); *United States v. Prince*, No. 2:16-cr-00225-GMN-NJK-2, 2023 U.S. Dist. LEXIS 7482, at \*8 (D. Nev. Jan. 17, 2023) (granting compassionate release to an individual in a wheelchair who has a pacemaker, congestive heart failure, and kidney disease). Thus, here, because Mr. Roy suffers from both kidney disease and hypertension, among other ailments, the Court finds that he is remains at acute risk from COVID.

While Dr. Greifinger does not use the term “acutely vulnerable” with regard to Mr. Roy’s vulnerability to COVID, he does note that individuals with underlying medical conditions, such as Mr. Roy “remain disproportionately at significantly higher risk” than those without such without. *Id.* ¶13. Moreover, he points out that the crude mortality risk for those patients hospitalized primarily for COVID with underlying medical conditions in Mr. Roy’s age group (2.0) is twice as high as those in the next younger age group (.9). *Id.* ¶15. Moreover, during the later stages of the Omicron period of the pandemic, the crude mortality rate for those with two underlying conditions was over *seven* times higher than those without any underlying conditions. *Id.* ¶16. It is true that those latter statistics do not explicitly differentiate between vaccinated and unvaccinated populations. However, that information, coupled with the information provided regarding the decreased efficacy rates based on the number of underlying medical conditions persuades the Court that Mr. Roy has carried the burden to demonstrate by a preponderance of the evidence that he remains acutely vulnerable to COVID within the meaning of *Autrey*. Dr. Greifinger’s declaration, which is in large part unchallenged by the government, states that the efficacy rates of the vaccine in individual with two underlying medical conditions, such as Mr. Roy, is 89%, as opposed to the 98% for those individuals with no underlying medical conditions. Geifinger Dec. ¶ 18.

Perhaps most compelling of all, Mr. Roy testified that, despite his request, he did not receive a second booster, as recommended by the CDC. The quantifiable and significant reduced efficacy of the vaccine for people in Mr. Roy’s medical condition, his request for and failure to receive an updated booster, and the severity of the outcomes of infection, appear to the Court to prove by a preponderance of the evidence that Mr. Roy remains acutely vulnerable to COVID, notwithstanding his incomplete vaccination. Mr. Roy, therefore, has carried his burden to prove

by a preponderance of the evidence, sufficiently extraordinary and compelling reasons for his release.

B. Mr. Roy Has Carried His Burden To Demonstrate That He Does Not Pose A Danger to the Community.

The government argues that Mr. Roy is still a danger to the community, citing the nature of the crime, his record at BOP, and his lack of vocational skills. The Court has reviewed Mr. Roy's records and finds that he has carried his burden to prove by a preponderance of the evidence that he no longer poses a danger to the community.

a. The Serious Nature and Circumstances of Mr. Roy's Crimes

Mr. Roy does have a criminal history prior to being incarcerated. Mr. Roy was convicted of Armed Robbery and Carrying a Dangerous Weapon in December of 1992, but the convictions were overturned by the Court of Appeals who directed judgments of acquittal. The Court of Appeals affirmed his carrying a pistol without a license conviction, and Mr. Roy was released in 1995. *Roy*, 652 A.2d at 1108-09. Mr. Roy was not on any form of supervision at the time of this offense.

At trial, the jury had the option to find that Mr. Roy was guilty of first-degree or second-degree murder. The jury found him guilty of second-degree murder using a flawed instruction. *See Fleming v. United States*, 224 A.3d 213 (D.C. 2020). However, there is certainly sufficient evidence to allow, although not compel, a jury finding that Mr. Roy was armed with a firearm and committed second-degree murder.

The Court does not place any particular weight on the government's argument that Mr. Roy's lack of remorse is evidence of his dangerousness. (Gov't in Opp'n at 31-32). The Court has found that compassionate release is not statutorily conditioned on Defendant's expression of his remorse nor his acceptance of responsibility. Nor is such acceptance essential to a finding of

sufficient rehabilitation. Mr. Roy has a right to maintain his innocence and the right to seek post-conviction relief. Moreover, his exercise of either of those rights is not the basis for the Court finding his continued dangerousness.

Presently, Mr. Roy has served all his other sentences except for his second-degree murder conviction.

In this case, the nature of the offense is clearly violent and dangerous, and the outcome was tragic. The Court notes that Mr. Roy was convicted of committing the offense over twenty years ago. More recent information regarding his conduct in the BOP is highly probative of his potential dangerousness, if released.

b. The History and Characteristics of Mr. Roy, including his record at BOP.

Mr. Roy has taken over 40 courses since incarceration, including college-level business classes, crocheting, card making, basic drawing, and the French Revolution. Supplement to Mot. at 2; Harnett Decl., Ex. 4. Mr. Roy has participated in many programs, including the At Life Connections Program, where he received top marks.<sup>9</sup> Harnett Decl., Ex. 1. He also has maintained employment for most of the time he has been incarcerated, including food service and recreation orderly. Harnett Decl., Ex. 2; *see e.g., United States v. Jones*, 482 F. Supp. 3d 969, 985 (N.D. Cal. 2020) (“BOP work assignment as a unit orderly assisting with institutional admission and orientation for new inmates indicates that the prison staff trust [defendant] to be a positive role model for new inmates.”). Mr. Roy’s efforts while incarcerated demonstrate a commitment to bettering himself and being productive in society upon release. *See United States v. Fennell*, 570 F. Supp. 3d 357, 364 (W.D. Va. 2021) (“Fennell has used his time to develop

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<sup>9</sup> His comments from the teacher in this course stated that he completed “[g]ood sincere work that reflects genuine interest in transformation.” Harnett Decl., Ex. 1.

skills that will enable him to become a productive member of society upon his release.”). He also is involved in a faith-based-reentry program. His programming rating is listed as “good” by the BOP.

Mr. Roy has had three drug-related infractions during his two decades of incarceration with the BOP. Mr. Roy’s last infraction in prison was in 2018. Harnett Decl., Ex. 5. While relatively recent, there have been no additional infractions in the last five years. He has had no infractions related to fighting, assaults, threats or weapons. *Id.*

Mr. Roy has rated a “low” risk of recidivism by the BOP. Harnett Decl., Ex. 3. This rating means that the government’s risk assessment tool predicts that there is more than 95% chance of non-recidivism. According to Mr. Roy’s counsel, his case manager at FCC Hazelton, Michael Barlow, commended Mr. Roy as “a model inmate in our unit team’s eyes.” Harnett Decl. ¶ 20. While not dispositive of his dangerousness assessment, it is probative of the Court’s determination that he has carried his burden with respect to his dangerousness.

c. Mr. Roy’s Release Plan

Mr. Roy has a robust release plan. Mr. Roy plans to live with his mother in Maryland. He has multiple employment prospects and was selected to be involved in the Susa Group,<sup>10</sup> a faith-based organization that will help him acclimate to life outside of prison. Furthermore, Mr. Roy has a large community that plans to support him upon his release, as evidenced by his mother’s Declaration, the number of family members that came to Mr. Roy’s motion hearing in April 2023, and several letters submitted by his family. Supp. Roy-Stevens Decl.; *see e.g. United States*

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<sup>10</sup> The Susa Group selected Mr. Roy to participate in The Destiny Program. The Destiny Program works with select churches to help recently released inmates become involved in their communities. In order to be selected for the program, the individual must have a “good incident record while incarcerated, with the second and most important being that the inmate has MATURED during their prison sentence.” Suppl. Decl. of Minister Mike Parker.

*v. Hopson*, 2020 D.C. Super. LEXIS 5, \*16 (weighing the defendant’s family support and community ties when deciding to grant the compassionate release).

The Court acknowledges that Mr. Roy’s release plan is certainly at least as robust as many that have led to a successful adjustment and that Mr. Roy has other positive factors, such as his job prospects, his work as an orderly, and his support system. A robust release plan weighs in favor of granting compassionate release. *See e.g., United States v. Ortega*, No. 02-CR-348 (LTS), 2022 U.S. Dist. LEXIS 154256, at \*10 (S.D.N.Y. Aug. 26, 2022) (“A concrete re-entry plan, especially one under which [defendant] would reside outside of New York—where he committed his crimes—after completion of his custodial sentence also counsels in favor of finding extraordinary and compelling reasons for a sentence reduction in the overall context of this application.”); *United States v. Salvagno*, 456 F. Supp. 3d 420, 461 (N.D.N.Y. 2020) (granting compassionate release when the defendant “presented a re-entry plan that was especially promising, as it provided concrete assurances that he would make a transformation to a law-abiding life”).

Ultimately, the Court believes that Mr. Roy has demonstrated that he has carried his burden to show by a preponderance of the evidence that he is not a danger to the community. Mr. Roy has already served more than 22 years of his sentence.


#### **IV. Conclusion**

As set forth above, the Court finds that the statutory factors weigh in favor of granting Mr. Roy’s Motion. Mr. Roy has proven by a preponderance of the evidence extraordinary and compelling reasons and a lack of dangerousness that justify a sentence reduction.

**Accordingly**, it is this 23rd day of May 2023,

**ORDERED** that Mr. Roy's Motion for Compassionate Release shall be **GRANTED**; and  
it is

**FURTHER ORDERED** that Mr. Roy shall be resentenced consistent with the Amended  
Judgment and Commitment order issued May 23, 2023.

A handwritten signature in black ink, appearing to read "Danya A. Dayson", is written over a light-colored rectangular background.

Danya A. Dayson, Associate Judge

Copies To:

All Counsel on Record