

UNITED STATES DISTRICT COURT	
EASTERN DISTRICT OF WISCONSIN	
United States of America Plaintiff	<p style="text-align: center;">U.S. District Court WISCONSIN : Eastern</p> <p style="text-align: center;">MAY 11 2020</p> <p style="text-align: center;">FILED Clerk of Court</p>
VS.	CASE NO: <u>17-CR-160</u>
Ronald Van Den Heuvel Defendant	

EMERGENCY MOTION FOR REDUCED  
SENTENCE UNDER THE FIRST STEP  
ACT OF 2018 PROVISION FOR COM-  
PASSIONATE RELEASE - 18 U.S.C. § 3582(c)(1)(A)

Now comes defendant Ronald Van Den Heuvel, pro se and respectfully submits this brief, not trained in law. As such defendant requests this court construe this filing liberally to grant relief in accord with Haines v. Kerner, 404 U.S. 579 (1972).

Mr. Van Den Heuvel asks that this court reduce his sentence to time served based upon extraordinary and

compelling reasons. Mr. Van Den Hervel is a non violent elderly offender with Auto Immune Onset Type one Diabetes in failing health that makes him unusually susceptible to contact the coronavirus. Defendant is now filing a prose "Request for sentence modification of imposed term of imprisonment per 18 U.S.C. § 3582 (c)(1)(A).

As noted in the Bureau of Prisons custody classification Mr. Van Den Hervel is a low risk inmate that has earned his place at a federal prison camp - a "facility for trustworthy inmates" - (Black's law dictionary 9<sup>th</sup>)

On 3-20-2020 the president of the United States declared a National Emergency and acknowledged the governments inability to control an active Coronavirus outbreak. This pandemic has now

blanketed the entire world causing the Center for Disease Control (CDC) to issue guidelines for compassionate release for people at high risk for severe illness from COVID-19. Together, all these developments have created an extra ordinary and compelling reason for relief via 18 U.S.C. § 3582(c)(1)(A) for release.

### CENTER FOR DISEASE CONTROL

The Center for disease control has identified those at greatest risk for contacting COVID -19 as :

- Those 65 years of age or older
- Those suffering from Diabetes
- Those with immune deficiencies
- Those on immune weakening medications .

Mr. Van Den Hevel's health suffers from and includes all of the C.D.C. identified factors listed and at a chronic level.

Since incarcerated Mr. Van Den Hevel has lost 68 pounds, numerous teeth, had a toe amputated, lost full use of his jaw as his body continues to break down causing him to be issued a wheel chair for months. Mr. Van Den Hevel's uncontrolled, and not properly treated, Auto Immune (non controllable) Diabetes continues to daily wear him down.

-Note, Mr. Van Den Hevel is a "Care Level Three (3)" Auto immune diabetic that requires 10 shots of insulin daily and an insulin pump (Mr. Van Den Hevel's presentence investigation report show a long and extensive record of being on an insulin pump pre incarceration) to function. Mr. Van Den Hevel is at a Care Level (2) Two Camp where

They are not equip to manage or control his diabetes. Daily Mr. Van Den Hewel only receives two (2) pens of insulin and as a result of this deficiency, continues to accelerate his medical problems and growing infections

#### COVID CONTROL

The B.O.P. has been under increasing pressure to implement measures to stop the spread of COVID-19. In Minnesota numerous correctional facilities have reported hundreds of cases of COVID-19. ST. LOUIS COUNTY, where Federal Prison Camp Duluth is located, has both tested positive and reported deaths from COVID-19. Jails in Mouse Lake, MN, Stillwater, MN, a near by boot camp and other county jails now report the virus present. F.P.C. Duluth now has confirmed family of staff members as infected by the virus.

The B.O.P. and its reporting of the accuracy of the number of real

COVID-19 infections have come under fire in the South District of New York (4-22-20) (- U.S. District judge Ronnie Abrams) and the Northern District of Ohio (4-24-20 - U.S. District judge James S. Gwin) with cases involving 8th amendment violation claims due to multiple deaths of inmates in Ohio and B.O.P. custody. Judge Gwin's order cited the lack of testing as a major weakness in the B.O.P.'s response to COVID-19. (As of May 4, 2020 no testing has been done at F.P.C - Duluth.)

On 4-20-2020 U.S. Senator Chuck Grassley (R-IA) and Dick Durbin (D-IL) requested the Department of Justice Inspector General Michael Horowitz review the implementation of Attorney General William Barr's April 3, 2020 directive giving B.O.P. additional authority to transfer at-risk inmates to home confinement or commute sentences to time served under compassionate relief.

Today Mr. Van Den Hevel, BOP scored not a risk to the public, remains housed and daily exposed to more than 600 individual. Unable to "social distance" or get the needed chronic diabetic care needed, his health and environment assure him he is most at risk at his current environment. Mr Van Den Hevel continues his sixth week of 23 $\frac{1}{2}$  hours per day locked down quarantine. He is not receiving proper care and such is causing great pain.

(EX A)

EXTRA ORDINARY AND COMPELLING  
REASONS SUPPORT MR. VAN DEN  
HEVELS REQUEST FOR RELEASE

Bureau of Prisons extensive medical records document Mr. Van Den Hevels extensive history showing chronic care needs including the loss of numerous toes, teeth and other issues.

(EX B) Additional records are available

directly to the court and not to the defendant as he remains in a nationally ordered lock down.

Mr. Van Den Heuvel reports that due to his medical condition, the fact that he is on multiple immune -weakening medications and has a compromised immune system he is most at risk for additional viruses. He describes his environment as "less than sterile".

AUTHORITY TO MODIFY A SENTENCE  
BASED ON EXTRAORDINARY AND COMPELLING  
REASONS.

18 U.S.C. § 3582(c)(1)(A) authorizes a district court to modify a previously imposed sentence of a defendant under 70 years of age "after considering the factors set forth in section 3553(a) to the extent they are applicable, if it finds that - (i) extraordinary and compelling reasons

warrant such a reduction"

Prior to the passage of the First Step Act of 2018 (Pub L. 115-391), only the Director of the Bureau of Prisons could file such a motion. 18 U.S.C. § 3582(c)(1)(A) (effective November 2, 2002). However the First Step Act amended this provision to allow a defendant to file an 18 U.S.C. § 3582(c)(1)(A) motion directly with the district court;

after the defendant has fully exhausted his administrative remedies as required under 18 U.S.C. § 3582(c)(1)(A)

#### EXHAUSTION OF REMEDIES

Mr. Van Den Heuvel has exhausted his remedies with the Bureau of Prisons. The Bureau of Prisons provided a copy of Mr. Van Den Heuvel's request that the Bureau of Prisons file a motion for release under 18 U.S.C. § 3582(c)(1)(A) dated April 9, 2020 (Ex C)

In any event, in the case of United States v. Miller, 16-20222-1 (E.D. Mich 4-9-2020), the district court found that the exhaustion requirement was not absolute and could be waived.

Additionally on April 22, 2020, the Warden (B. Birkholz) of F.P.C Duluth personally came into Mr. Van Den Heuvels unit, addressed approximately 100 inmates and told them he will not be considering any compassionate release requests and that they each should go straight to the courts.

#### POLICY STATEMENT

The policy statement regarding compassionate release sets forth three circumstances that are considered "extraordinary and compelling reasons." U.S. Sentencing Guidelines, § 1B1.13(1)(A) & cmt. n.1. Among these are the "medical conditions of the defendant," including where the de-

defendant is "suffering from a serious physical or medical condition... that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover" 1d § 1B1.13 cmt 1. The policy statement also requires that the defendant not pose a danger to the safety of the community. 1d § 1B1.13 (2). (There is no cure for Mr. Van Den Heuvel Auto immune diabetes and continued "non-care" is only causing more degeneration)

#### ADDITIONAL SUPPORT

- U.S. v. Brannon, No 4:15-CR-80-01 (April 2, 2020)  
Though not reflected in the order, emergency motion was granted on same day of filing for prisoner who had served only (9) nine months of a 36 month sentence and he had not exhausted BOP remedies.

— U.S. v. Foster, No 1:14-CR-324-02 (April 3, 2020)  
("The circumstances faced by our prison system during this highly contagious potentially fatal global pandemic are unprecedented. It is no stretch to call this environment extraordinary and compelling and we well believe that should we not reduce defendant's sentence, defendant has a high likelihood of contacting COVID-19 from which he would not be expected to recover."  
USSB ¶ 131.13 - No rationale is more compelling or extraordinary")

### OUTBREAK FORECAST

On April 26, 2020 The New York Times published that Minnesota is #10 when it comes to "Highest avg. daily growth rate of deaths" due to COVID-19

(EX D)

RELIEF REQUESTED

Mr. Van Den Hessel has served a substantial portion of his sentence under extremely difficult conditions.

His physical conditions, which have made his sentence more difficult, also places him at a much higher risk during the national pandemic.

He requests that this court find his physical condition to be an extraordinary and compelling reason that warrants a reduction of his sentence to time served.

CERTIFICATION

I pursuant, to 28 U.S.C. § 1746, swear that the foregoing is true and correct to the best of my knowledge and belief.

Ronald Van Den Hessel

5-5-2020

Ronald H. Van Den Hessel

Date

# 15653089 - FPC Duluth, P.O. Box 1000, Duluth, MN

55814

13.

HEALTH SERVICES – FPC DULUTH  
**SICK-CALL APPOINTMENT REQUEST**

Name: Ron Van Den Heuvel Number: 15653-089 Unit: 208

Case Manager: \_\_\_\_\_ Work: Electrical Date: 4-27-20

State your medical problem (may write on back of this page as needed).

**Problem:** Ron Van Den Heuvel is Being Held in Quarantine and this will continue and is Seeing lack of care or  
**When did it start?:** Diabetics and this is causing pain

**Symptoms:** See Added Page(4)

**Taken to treat symptoms:** \_\_\_\_\_

**PAIN ASSESSMENT SCALE** (circle number in first column)

PAIN LEVEL	WHAT THE NUMBERS MEAN
0	You feel no pain.
1-2	You feel very mild pain and are only aware of it when you focus on it.
3-4	The pain is tolerable and can be ignored. You are able to continue normal activities.
5-6	The pain is distressful, causing difficulty carrying out some normal activities.
7-8	The pain is severe, hindering concentration and ability to carry out all but simple activities.
9-10	The pain is disabling, not allowing you to focus on anything but the discomfort.

When did the pain begin? \_\_\_\_\_ Has pain gotten better, worse, or stayed the same? \_\_\_\_\_

Do you take any medications? Only Basal Insulin 96 Mcg Day Need Night Aspirin - Satin - Liposil - Vitamins

**VITALS:**

Temp: \_\_\_\_\_ Heart Rate: \_\_\_\_\_ BP: 119/83 Respirations: \_\_\_\_\_ Weight: \_\_\_\_\_

O2%: \_\_\_\_\_ Peak Flows (Asthma): \_\_\_\_\_ Sugar (Diabetics): 308

Triaged.

Schedule out

See now by: Dr Rice When Available

If you feel that you have an urgent MEDICAL issue ask a correctional officer or work supervisor to call Health Services to request an urgent appointment. DO NOT COME TO HEALTH SERVICES UNLESS YOU HAVE AN APPOINTMENT OR ARE PAGED ON THE INTERCOM. Do not knock on doors seeking appointment information. You will be out of bounds and told to leave. Send an electronic cop out via Trulines if you have questions.

**Case 1:17-cr-00160-WCG Filed 05/11/20 Page 1 of 10 Document 158-1** (EX A)

Dr. Rice & Wardens Birkholz

Pravintine in a Care level Two Facility (RUDH is a BOP care level 3) is not allowing Needed or Required Control of my Diabetes.

RUDH was on the Pump or 10 Tests And Two Pens for Two Times a Day prior to Treatment. The Past Judge & BOP Promised able and RUDH To Plea that RUDH would Receive Adequate Medical Care in BOP Custody to Treat RUDH's Auto Immune On Set Diabetes. (Patient-LADA)! The BOP Care level has not been Promised!

- #1 Not being able to Receive adjustments Insulin 2 to 6 times daily make this cruel.
- #2. Increasing the Base causes Pain
- #3. Now at 58 and 42 Wt Morning & Night
- #4. No Exercise also contributes greatly
- #5. Diet ?? - Fowl keeps on Frosted Flakes and Cake (Breakfast) And Peanut Butter + Jelly on Biscuit for Evening RUDH's #6 Diet Must be Better Controlled.
- #7. RUDH must be on Constant Testing with Test or Pump.
- #8 RUDH must have cardio not just Sit ups + Push ups!
- #9. M. Jones told RUDH he has not turned Energy & P Sentence + DOJ States not a requirement. RUDH Has Served 29 Months of 23 rds (of 90) on 60 months FSA Required
- #10 RUDH has lost Big Toe + His Hearing + Lost 4 Teeth with 4 Root Canals to go + Mouth is filled is very Blurry of High Sugar Level. A1C Now 9.6 !!

RVOH's Teeth Pain is getting Worse Daily! ~~I found~~  
Confinement Corrects All Inadequate Care levels!

Attorney General William Barr is Finally  
Correct in his Directive to Release  
to Home Confinement the Elderly (RVOH66)  
And At Risk Health Wise (RVOH is Severe  
Diabetic, Auto Immune Diabetic) Inmates.

RVOH was a -22 Resident on the  
old Testing unit has not Received the  
New Subjected One Set Will be Minimum  
With Zero Issues and a Good Integration  
RVOH has Been under Home Confinement  
✓ for 6 Months in Between Surgeries.

✓ Home is Empty Room with Care Given  
of Bad Nurse Ashley o (Nurse Practitioner)  
and Good New Medical Student at  
Northwestern & not Good Diagnostic Physician!

RVOH is on Social Security and Medicare with  
Supplemental Dental & Health Care Insurance. RVOH  
will Receive No other Subsistence! RVOH  
Can Pay Room in Rest Home also!  
RVOH can get the Diabetic Treatment  
and Tests 10 Times Daily - Exercise Daily -  
Have a Proper Diet - This will greatly improve my Health  
+ Vision + Hearing + Reduce Pain.

RUSH to Home Confinement will Improve Safety for the Guards & Officers and Medical Staff and Others at Duluth Federal Prison Camp. RUSH Home Confinement adds Safety to the other Inmates. A Compromised Immune System is very Responsive to the Covid 19 Virus. This is why Nursing Homes Spread fast Prior to Any Symptoms being Noticed.

Attorney General Barr's Directive Per His and Mr. Lincolns Office is very Clear, "transfer the Elderly and at Risk Vulnerable Inmates to Home Confinement". Duluth Prison Camp has been Quarantined for over 20 Days! Attorney General's Path is a better way for the BOP to follow to insure Safety for these At Risk and Elderly Inmates and Most by the Duluth Medical Staff with Supervised Government Personnel.

(3)

According to the Centers for Disease Control And Prevention those over the age of 65 are 22 times more likely to die of Covid-19 than those people under age 55. 22 Times! It makes for the 65 year old Non-Violent Inmates to home confinement.

Confinement AS SOON AS Practically Possible.

ALSO Men Appear to have nearly Twice the Fatality rate of Women!  
Most At Risk are the Most Vulnerable People with Respiratory or Immune Deficiency or Diabetes or Heart conditions which increases A Persons likely ness to die From Covid-19 (Times P).  
Isolation at Home Confinement is the Only Safe and Secure way

RUDH CAN be Protected. RUDH wants to live to help raise my Minor Children And Grand Children (D) And Great Grand Child (D). I Love Kelly My Wife and most Acost her Through her Breast Feeds!

Vaccines are Very Hard to develop. After decades of trying the Human Race still does not have a vaccine for HIV or Hepatitis C. The fastest vaccine ever developed for a viral infection is the E-Bola vaccine which Took 5 Years. RUDH in his life time has survived - Polio - Tuberculosis - HIV - Rumatic Fever - And will Survive Covid 19.

But can Not bring Daily with No New info

Punished with Quarantine & Ban. Think You Bout Your House

(4)

A

**Bureau of Prisons  
Health Services  
Medical Duty Status**

Reg #: 15653-089

Inmate Name: VANDEN HEUVEL, RONALD H

**Housing Status**

- confined to the living quarters except  meals  pill line  treatments Exp. Date: \_\_\_\_\_  
 on complete bed rest:  bathroom privileges only Exp. Date: \_\_\_\_\_  
 cell:  cell on first floor  single cell  lower bunk  airborne infection isolation Exp. Date: 04/24/2020  
 other: can wear own purchased tennis shoes (includes old pair of diabetic soft shoe) Exp. Date: 01/13/2021

**Physical Limitation/Restriction**

- all sports Exp. Date: \_\_\_\_\_  
 weightlifting:  upper body  lower body Exp. Date: \_\_\_\_\_  
 cardiovascular exercise:  running  jogging  walking  softball Exp. Date: \_\_\_\_\_  
 football  basketball  handball  stationary equipment  
 other: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

**May have the following equipment in his/her possession:**

Equipment	Start Date	End Date	Return Date
Shower Protection Bag, Leg	02/03/2020	03/31/2020	
Wheelchair	01/09/2020	02/06/2020	
Hearing Aid-L	12/23/2019		
Hearing Aid-R	12/23/2019		
Alternate Institutional Shoes	12/13/2019	01/13/2020	
Diabetic composite Toe Shoes			
Glucose Meter	08/26/2019		

Serial # EL241180 issued 9/3/19

**Work Restriction/Limitation**

Cleared for Food Service: No

**Restriction**

Medical Convalescence

Expiration Date:  
02/18/2020

Comments: care level 3- toe amputation

Peterson, Ashley FNP-BC

02/04/2020

Health Services Staff

Date:

Inmate Name: VANDEN HEUVEL, RONALD H

Reg #: 15653-089

Quarters: 002

ALL EXPIRATION DATES ARE AT 24:00

Bureau of Prisons  
Health Services  
Medical Duty Status

Reg #: 15653-089

Inmate Name: VANDEN HEUVEL, RONALD H

Housing Status

confined to the living quarters except  meals  pill line  treatments Exp. Date: \_\_\_\_\_  
 on complete bed rest:  bathroom privileges only Exp. Date: \_\_\_\_\_  
 cell:  cell on first floor  single cell  lower bunk  airborne infection isolation Exp. Date: 04/24/2020  
 other: Exp. Date: \_\_\_\_\_

Physical Limitation/Restriction

all sports Exp. Date: \_\_\_\_\_  
 weightlifting:  upper body  lower body Exp. Date: \_\_\_\_\_  
Cardiovascular exercise:  running  jogging  walking  softball Exp. Date: \_\_\_\_\_  
 football  basketball  handball  stationary equipment  
 other: Exp. Date: \_\_\_\_\_

May have the following equipment in his/her possession:

Equipment	Start Date	End Date	Return Date
Alternate Institutional Shoes	04/23/2019		
diabetic soft shoes			

Work Restriction/limitation

Cleared for Food Service:  NO  
Restriction

Expiration Date  
04/24/2020

No Work Requiring Safety Shoes

Comments: care level 3

Rice, Benjamin MD, CD

04/24/2019

Health Services Staff

Date

Inmate Name: VANDEN HEUVEL, RONALD H Reg #: 15653-089 Quarters: 003

ALL EXPIRATION DATES ARE AT 24:00



U.S. Department of Justice

Federal Bureau of Prisons

*O*  
Federal Prison Camp

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Duluth, MN 55814

April 9, 2020

MEMORANDUM FOR VANDEN HEUVEL, RONALD

Reg. No. 15653-089

*for Dule*

FROM: B. Birkholz, Warden

SUBJECT: Reduction In Sentence (RIS) Request

You requested a Reduction In Sentence (RIS) based on concerns about COVID-19. After careful consideration, your request is denied.

Title 18 of the United States Code, section 3582(c)(1)(A), allows a sentencing court, on motion of the Director of the BOP, to reduce a term of imprisonment for extraordinary or compelling reasons. BOP Program Statement No. 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g), provides guidance on the types of circumstances that present extraordinary or compelling reasons, such as the inmate's terminal medical condition; debilitated medical condition; status as a "new law" elderly inmate, an elderly inmate with medical conditions, or an "other elderly inmate"; the death or incapacitation of the family member caregiver of the inmate's child; or the incapacitation of the inmate's spouse or registered partner. Your request has been evaluated consistent with this general guidance.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence. Accordingly, your RIS request is denied at this time.

If you are not satisfied with this response to your request, you may commence an appeal of this decision via the administrative remedy process by submitting your concerns on the appropriate form (BP-9) within 20 days of the receipt of this response.

Inmate Provided copy on 4/17/2020 by K.Winger  
DATE STAFF

## Tracking an Outbreak The Numbers

### Where Outbreaks Might Come Next

In places where the growth rate is high but the number of cases is relatively low, a community may still have time to flatten its curve before an outbreak becomes widespread. Communities with a lot of cases and a high growth rate are on track to have a serious problem.

### Highest avg. daily growth rate of cases

METRO OR MICRO AREA	DAILY GROWTH RATE...	CASES DOUBLE EVERY...	RECENT CASES	METRO OR MICRO AREA	DAILY GROWTH RATE...	DEATHS DOUBLE EVERY...
1. Sioux City, Iowa	1.2 days	80%	355	1. Grand Island, Neb.	1.9 days	20
2. Marion, Ohio	1.2 days	58%	2,127	2. Durham-Chapel Hill, N.C.	2.6 days	31%
3. Pine Bluff, Ark.	1.5 days	38%	674	3. Reading, Pa.	3.4 days	75
4. Waterloo-Cedar Falls, Iowa	2.2 days	36%	534	4. Virginia Beach	3.5 days	39
5. Green Bay, Wis.	2.3 days	32%	560	5. Richmond, Va.	3.5 days	100
6. Goldsboro, N.C.	2.5 days	22%	551	6. Harrisburg-Carlisle, Pa.	3.5 days	23
7. Amarillo, Texas	4.4 days	17%	305	7. Norwich-New London, Conn.	4.1 days	16
8. Albertville, Ala.	4.8 days	16%	186	8. Washington, D.C.	4.5 days	411
9. Bowling Green, Ky.	4.9 days	15%	246	9. Toledo, Ohio	4.6 days	50
10. Rockford, Ill.	5.0 days	15%	255	10. Minneapolis-St. Paul	4.6 days	136

Growth rates are averaged over the previous week.

Limited to areas with more than 250 cases.

Limited to areas with more than 20 deaths.



1 2 3 4 7 30

(Ex D)

Clerk of the Court,

Due to a National lock down

order, due to COVID -19, I am  
without access to the law

library and unable to type this  
motion.

Thank you for recording the  
following Emergency motion.