

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DEC 20 2021

United States of America,

Plaintiff,

vs.

Case No. 19-cr-151

Francisco Martinez,

Defendant.

MOTION FOR A COMPASSIONATE RELEASE
PURSUANT TO 18 U.S.C. 3582(c)(1)(A)

I, defendant Francisco Martinez, am filing a pro se motion for a Compassionate Release / RID (Reduction In Sentence) pursuant to 18 U.S.C. 3582(c)(1)(A) and in support thereof states as follows:

The court may reduce a sentence under section 3582(c)(1)(A) "If it finds that extraordinary and compelling reasons warrant such a reduction" and "that such a reduction is consistent with applicable policy statements issued by the sentencing commission."

In order to grant a motion for a compassionate release, the court engages in a three-step inquiry. The first is a determination of whether there exists extraordinary and compelling reasons for release. The second reviews whether the applicant remains a danger to the community pursuant to 18 U.S.C. § 3142 (g). Finally, the court again considers whether the factors listed in 18 U.S.C. § 3553 (a) favor release. *United States v. Jones* 980 F.3d 1098, 1101 (6th Cir. 2020) (citing 18 U.S.C. § 3582 (c)(1)(A)). If each of those requirements are met, the district "may reduce the term of imprisonment." 18 U.S.C. § 3582 (c)(1)(A).

Congress failed to give a statutory definition for what constitutes "extraordinary and compelling reasons" for release. Instead, it delegated the task to the sentencing commission. See 28 U.S.C. § 994(+). In 2006, the commission provided U.S.S.G. 1B1.13 which describes four categories of extraordinary and compelling reasons. The first three are related to an inmates serious medical conditions, age, and status as a caregiver. U.S.S.G. § 1B1.13, cmt.n.1(A)-(c). The last category a catch-all provision titled "Other Reasons," which reads: "As determined by the Director of the Bureau of Prisons, there exists in the defendants case an extraordinary and compelling reason other than, or in the combination with, with reasons described in subdivisions (A) through (C)." Id § 1B1.13, cmt.n.1(D).

Until recently, the Bureau of Prisons was the only entity who could petition the court for compassionate release. A 2013 review by the Office of the Inspector General revealed compassionate release was a rare occurrence. On average, only 24 inmates were released each year through compassionate release. *United States v. Brooker*, 976 F. 3d 228,231 (2nd Cir. 2020). In addition the program was plagued by mismanagement as the BOP's "implementation of the program was inconsistent and the BOP had no timeliness standards for reviewing requests." Id at 231-32.

In December 2018, Congress intervened to expand compassionate release. Through the First Step Act, Congress allowed inmates to also petition the courts for compassionate release. *Jones*, 980 F. 3d at 1104-05 (discussing how a bipartisan coalition in Congress sought to boost grants of compassionate release by reforming § 3582 (c)(1)(A)'s procedures). See also *United States v. McCoy*, 981 F. 3d 271,276 (4th Cir. 2020) noting that the First Step Act removed the Bureau of Prisons from it's former role as gatekeeper over compassionate release petitions.

The new provisions raised a difficult questions for district courts to answer: Does § 1B1.13 apply to compassionate release motions filed by inmates? The Sixth Circuit recently instructed district courts that 1B1.13 is no longer applicable to compassionate release motions brought by inmates. *Jones*, 980 F. 3d at 1108-11. The text of the guideline along with the clear congressional purpose in the First Step Act of removing the BOP from it's gatekeeper role, led to this conclusion. See *Id.* discussing the purpose of the First Step Act

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and noting that "the first sentence of § 1B1.13 predicates the entire policy statement on the Director of the BOP's filing a motion for compassionate release." The statement in Jones that § 1B1.13 was inapplicable to inmate-filed compassionate release motions aligned with the Second Circuit, the first circuit to rule on the matter, as well as the majority of district courts. See *Brooker*, 976 F. 3d at 234. Since Jones, the Seventh Circuit and Fourth Circuit have reached the same conclusion. See *United States v. Gunn*, 980 F. 3d 1178, 1180 (7th Cir. 2020); *McCoy*, 981 F. 3d at 281-82. In the absence of an applicable policy statement for inmate-filed compassionate release motions, district courts have discretion to define "extraordinary and compelling" on their own initiative. See *Jones*, 980 F. 3d at 1111; *Ruffin*, 978 F. 3d at 1007 (suggesting that without an "applicable" policy statement for motions by defendants...district courts may freely identify extraordinary and compelling reasons).

Now I would like to explain my circumstances and I strongly believe that they are more than enough reasons for my request, and I hope and pray that you agree after giving everything some thought. At my sentencing and within my P.S.I. report, I mentioned I had legal custody of my older three kids before getting arrested. What I did not mention though is that the reason I had custody was because the mother of my older three kids wasn't and still is not a responsible parent or even person in general. Because of my arrest, she now takes care of my older kids and already had multiple run-ins with child services. My two oldest daughters also attempted suicide because of my incarceration. Right now, my older kids have no kind of guidance or parental support out there and seem to be getting exposed to a trashy life on a regular basis. They tell me how their mom never tells them she loves them. She will leave them at home the whole day and just expect my older kids to watch her younger two kids while she goes out to party or see a random guy including the weekdays. They tell me how she comes home at 8a.m. sometimes and is too drunk to take anyone to school so they have to figure out a different way to school. They tell me how they are constantly meeting different guys that she brings home randomly, how she will sometimes wake them up on a school night at 2a.m. all drunk and constantly partying. And the list goes on. Unfortunately I grew up in a similar way and went down the wrong path. I want to stop this horrible family cycle I was raised by. My family promoted me to go down the wrong path when I was a kid and now my kids are stuck in the same cycle, but instead with their mom. I know I can stop this cycle. I can get back out before they're all grown. They're all teenagers right now, and in those years

kids are more influenced by their environments more than ever and it plays a big role in how they come out as adults more than their other years. Someone can always change later down the line eventually but I don't want to help them change "after" they go down the wrong path. Instead I would prefer to help them "before" they end up down that wrong path so they can use their future years being more productive and training to be successful, not waste all those years of their lives doing irresponsible things and then slowly transition away from the bad stuff and possibly picking up some bad habits along the way that are hard to shake off. I try to talk to them on the phone when I can, but there is still a HUGE difference of being there for them in person vs. calling them on the phone. I can't attend their football games, help them with homework, be there when they come home sad or happy, spend quality time with them, etc. Besides all of this, the institution I'm at enforced a new visitation policy stating that visitors have to be 16 years old or older to come visit due to the COVID crisis, so I can't even see 4 of my 5 kids at all until I probably go home because obviously COVID isn't going away any time soon. I'm trying my best to still be there for them but it is no where near as impactful as being home with them.

Besides that, one of my grandparents can barely walk due to health problems on my father's side of the family and my other grandparent on my mother's side is literally on hospice and can't even stand up. Both of their spouses have already passed away so these two very ill ones left are my only living grandparents. On top of that, I have my own health problems as well. While I was incarcerated in Brown County Jail, I got in an altercation with an inmate defending myself after he walked up to me yelling and swinging at me (look at incident report for details) and ended up getting permanent damage in my hand because the guy was twice my size so my bone broke when I tried to defend myself. The county jail took at least 6 months to finally send me to the hospital after I was constantly complaining literally every week about how my hand feels broken and can't use it, and dealing with them refusing to listen and send me to the hospital. When I finally got to the hospital, the nurse told me they could've fixed my hand if I would've came within a couple months of when the incident happened but now it is too late to fix it (see date of incident and then date of me finally arriving at hospital).

I've also had chest pains for over 2 years and it took the county jail 2 years to send me to the hospital for that also. Now that I'm in the BOP system, it's like the same thing repeating over. The nurse here told me to take the meds offered on commissary and that's all they can do. She said I have GERDS and that I just have to deal with it and that there's no alternative meds available, just the ones on commissary. I told her that the GERDS medicine makes me feel worse and she said I just have to learn how to live with it. I'm not telling you this to discredit the prison system's medical treatment, I'm more explaining this to you so you understand that an inmate has to go through a very good amount of trouble to be sent to the hospital "if" he does. And there's no such thing as getting a second opinion from a different Dr. also in case the Dr. we saw didn't diagnose us accurately which happens because nobody is perfect. Everyone makes mistakes so if inmates ever come across that kind of mistake, we just have to deal with it after going through all the trouble to see a Dr. And then we're looked at as a burden or over-reacting if the Dr. didn't figure out what was really wrong with us and possibly diagnosed us wrong. I still to this day have daily to every other day chest pains and am not comfortable taking the COVID vaccine because according to studies, hundreds of people died from taking the vaccine but was due to previous health problems. Even though it's only hundreds that died, I don't want to risk being one of those statistics. If I were to get compassionate release, I would be able to take care of my kids like how they should be taken care of and supported. I can see both my last grandparents before they pass away, I can get the proper medical attention I need without waiting years and going through all kinds of trouble, and I can be a productive citizen adding my part to the world in a positive way to society.

I am convicted of a nonviolent offense and instead of just sitting around wasting my life away during my incarceration, I decided to change my mentality and be a more productive person, as the court I'm sure hoped I would. I have relentlessly sought rehabilitation and managed to take H.S.E.D. class, study psychology, attend philosophy classes, and a parenting program all while in the county jail. When I entered the BOP system, I then participated in multiple academic and vocational training programs such as Culinary Arts, a re-entry program, and I am currently a G.E.D. Tutor, helping other inmates with their academics. I also have another job as a unit orderly, and am also currently enrolled in other programs, while simultaneously working on Adult

Continuing Education (ACE) work packets as well. I've been dedicating myself to reformation which applies to the objectives of § 3553 (a)(2).

I understand we have to be punished for committing a crime and I apologize and take responsibility for my mistake but I've also suffered so much already and can promise I will be a law-abiding citizen faithfully. Sentencing someone to a certain amount of years doesn't change that person into a law abiding citizen. The most important parts for someone when getting punished for a crime is for him to acknowledge his mistake, having remorse for what he did, and then working to redeem himself. See United States v. McConico, 2020 U.S. Dist. LEXIS 13718 (E.D. Mich., July 31, 2020) ("Nor does a reduced sentence threaten to diminish respect for the law. Respect for the law is promoted by demonstrating it's humanity as much as it's rigidity"). Also, I would've qualified for the safety valve if the parole board didn't violate me for a case that I beat back in 2004. I only had one month of parole left so I feel like they either violated my parole because it was probably just easier for them to do that and make me finish my one month in prison instead of letting me back out on papers, or they simply didn't believe in "innocent until proven guilty" and have this mentality of "guilty no matter what." My case was dismissed but they didn't care at all. I got held accountable twice for that which is unfair because it disqualified me from the safety valve.

If it weren't for that and I would've gotten the safety valve, my guidelines would've been Category One Level 25 which means I would've done over 50% of my time by now if sentenced on the lower end. Even without the safety valve, my guidelines when I was sentenced was Category Three Level 27 which means I would've done around 50% of my time already if sentenced on the lower end of that. But because of the mandatory minimum, I had to take 10 years. At sentencing, you told me your hands were tied and didn't have the authority to sentence me under the mandatory minimum but if things change in the future, you will. Well the compassionate release allows you jurisdiction to overrule the mandatory minimum now so I'm asking you to please consider all my circumstances in this motion PLUS the guidelines I could've gotten from the safety valve and still have today even without it right now. My family is my world and they were taken away from me. I will not be one of those people getting in trouble again when I get back out. This sentence I received was a sentence for my family too, not just me. I feel terrible and will NEVER put them or myself in this situation

never again. I ~~un~~ understand that what I did was wrong, and that

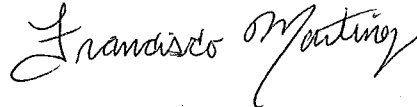
this is the consequence. I don't need a 10 year sentence to comprehend my faults and change them though. I am 100% remorseful for my actions. Please consider all the things my family and I all went through emotionally and physically and are still going through right now. I'm hoping you will give me the opportunity to show my rehabilitation and redeem myself back on the outside world. As I mentioned earlier too, if possible, I'd like to be more in control of my medical issues which is impossible while incarcerated. And also be a responsible productive parent, husband, and citizen while fixing my health. I'm attaching my medical report so you can see the date my bone in my hand was broken and compare it with the date to see how long it took for me to finally get sent to the hospital. I have copies of my constantly asking HSU to please help me and requesting to be sent to the hospital but I don't want to overwhelm you with all those correspondence papers. It's over 6 months worth. I have correspondence about my chest pains to HSU also but again that's a lot of papers. I have the hospital paper with the date on it also which took 2 years to get a CT scan, but when I took it, it was without the fluid I think they call angiogram that detects everything. Now the BOP is saying the CT scan is good enough and diagnosed me with GERDs and told me to use the meds on commissary and just learn to live with the constant chest pain. So my hands are tied on that.

I also understand that the court has to consider concerns about the community's safety and the nature of my crime. I am convicted of a non-violent offense and do NOT pose any kind of danger to the public if released. I also understand that while requesting compassionate release, that part of that may also include home confinement as a condition of supervised release. Atwi, 2020 U.S. Dist. LEXIS 68282, *15 (granting compassionate release and ordering that the remainder of a defendants sentence will be reduced to home incarceration). United States v. Gileno, No. 19-161, 2020 U.S. Dist. LEXIS 677239, at *14 (D. Conn., Apr. 17, 2020) (ordering that a defendant be on home confinement as a term of supervised release until his original BOP release date). United States v. Burill, 17-00491, 2020 U.S. Dist. LEXIS 65774, at *10-11 (N.D. Cal., Apr. 10, 2020) (ordering that the remainder of the original prison term shall be served as supervised release subject to a condition of home confinement).

For the reasons stated above, I, Defendant Francisco Martinez, again respectfully ask that you grant this motion of compassionate release / RID. I truly know that I am a very good candidate to be released early and can help prove that these kind of motions were created for good reason. I pray this reaches you in good health and thank you for your time.

Respectfully Submitted,

Francisco Martinez

A handwritten signature in cursive script that reads "Francisco Martinez".

#17075-089 I-Unit
Federal Correctional Institution
P.O. Box 1000
Sandstone, MN 55072

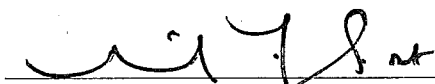
MARTINEZ, Francisco
Reg. No. 17075-089 (I)

You requested a reduction in sentence (RIS) based on concerns about COVID-19. After careful consideration, your request is denied.

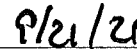
Title 18 of the United States Code, section 3582(c)(1)(A), allows a sentencing court, on motion of the Director of the BOP, to reduce a term of imprisonment for extraordinary or compelling reasons. BOP Program Statement No. 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation 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.

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.



J. Fikes, Warden



Date

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Warden Fikes	DATE: 09/08/21
FROM: Francisco Martinez	REGISTER NO: 17075089
WORK ASSIGNMENT: Orderly	UNIT: I

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.

To Warden Fikes,

I am requesting a compassionate release pursuant to 18 U.S.C. 3582 (c)(1)(A) based on the facts that I am a high risk for severe outcomes if catching covid19 because I have consistent chest pains for still unknown reasons which is why I'm also hesitant to take the vaccine also because there's factual information that a certain amount of people passed away from taking the vaccine due to already unhealthy conditions. My family also needs my help with emotional, physical, and financial support from me. I have 5 kids and a wife who are going through rough times with me being in here and need my help asap. My grandmother is also on hospice and has limited help

(Do not write below this line)

DISPOSITION:

FCI Sandstone

SEP 09 2021

Warden's Office

Signature Staff Member	Date
------------------------	------

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 6

FROM: East Unit

TO: 17075089

SUBJECT: RE:***Inmate to Staff Message***

DATE: 12/04/2021 06:32:02 AM

You need to reach out to Ms. Fogt, CMC.

>>> ~^I"MARTINEZ, ~^IFRANCISCO" <17075089@inmatemessage.com>

To: D. Lee-Lo (Unit Manager)

Inmate Work Assignment: Orderly

I sent a cop out to the warden for a compassionate release about a month ago and still haven't received anything back yet so I asked my counselor D. Meier about it and he said for me to reach out to you about it to see what's going on so I'm sending this message to ask if you can find out what the status is on my cop out. I was told it doesn't take this long so I'm wondering what's going on. Can you please find out what the problem is? Thank you for your time.

Unit managers response from my message

Date I sent message about my compassionate release request

FROM: ISM/Mailroom/Records

TO: 17075089

SUBJECT: RE:***Inmate to Staff Message***

DATE: 12/07/2021 10:57:02 AM

I just received receipt of multiple requests and will have them processed as soon as possible. Our Warden's Secretary has been out so that may have been the cause for delay.

>>> ~^!"MARTINEZ, ~^!FRANCISCO" <17075089@inmatemessage.com>

To: Ms Fogt (CMC)

Inmate Work Assignment: Orderly

12/4/2021 8:11 AM >>>

I sent a cop out to the warden for a compassionate release request about a month ago and was told to send you a message about my concerns why it's taking so long. I was told it only takes 1-2 weeks for a response back so I'm wondering what the status is on my cop out and when I might be getting a response back. Please let me know what's going on when you have a chance. Thank you for your time.

BP-9

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Martinez, Francisco 17075089 I FCI Sandstone
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I sent a cop out over a month ago for a compassionate release request and two weeks ago, I sent an electronic message to the unit manager and he told me to send a message to an emply named "Miss Fogt", So I did and still two weeks later, I havent gotten ~~my~~ a response back. So I'm filling out this BP-9 to hopefully hear something back and possibly get a response about my request for a compassionate release.

12/14/21
DATE

Francisco Martinez
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: Case 1:19-cr-00151-WCG Filed 12/20/21 Page 4 of 17 Document 336-1
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Subject: Fwd from deltaunit ; Delta medical
Request

To: 930000022047 FRANCISCO NMI MARTINEZ
8/6/1981

From: health_services

Date: 8/5/2019 12:46:33 PM

Message:

On 2019-08-05 12:46:33, an admin user replied:

Next available appointment with HSU
EBLPN

*This is the date I first requested
to be seen for my lungs and chest pain.*

Original Message, sent 2019-08-02 20:50:32:

I filled out a request a week ago about my spine hurting and i was told to get medical records from the outside world. I don't have any though. My spine and top back hurt a lot and i'm assuming is going bad from the mattress and built in pillow. Also i feel like my lungs are starting to hurt. Not sure whats going on.

Subject: Fwd from deltaunit : Delta Medical Request

To: 930000022047 FRANCISCO NMI MARTINEZ 8/6/1981

From: health_services

Date: 9/21/2019 2:27:01 AM

Message:

On 2019-09-21 02:27:01, an admin user replied:

Next available appointment with HSU MBLPN

This is second time I requested to be seen for my chest pain

Original Message, sent 2019-09-20 15:05:58:

I have aches in my heart all the time. Not from stress either because i'm not stressed out. Not sure why i have those aches or what they mean but i have em every day.

#19-1682

medical

SCANNED

MV 2252 10/17/19

**BROWN COUNTY SHERIFF'S DEPARTMENT
JAIL DIVISION
INMATE GRIEVANCE FORM**

INMATE NAME	DATE	OFFICER USE ONLY:
# Francisco Martinez	10.16.19	DATE FILED: 10-16-19
INMATE HOUSING UNIT / CELL		REC'D BY: 312330
Delta 2176		

STATE YOUR GRIEVANCE (INSTRUCTIONS ON THE REVERSE SIDE OF THE PAGE)

I have been having chest pains for several weeks. I requested to be seen by a doctor on 08.02.19, 09.20.19, 09.28.19 to have my lungs and or heart looked at. I was told I would be seen. I haven't been seen by neither psychiatrist nor medical physician, but was recently prescribed "PROPRANOLOL" which is an anti-depressant. I haven't been seen by any professional to be diagnosed and prescribed medication. This is not a chemical imbalance in my brain, I don't have depression issues or a history of "dual-diagnoses", this is an issue causing me physical pain in the left side of my chest. I am worried about my health and well-being and feel a random prescription without proper diagnoses could exacerbate this issue.

This is a grievance because they prescribed me anxiety/depression meds before even coming to see me. I felt like that was pretty wrong. People get hooked on those drugs and they prescribe them to me without even coming to see if it's actually a physical problem (which it is) instead of a mental one.

WITNESSES INVOLVED:

Francisco Martinez

INMATE SIGNATURE:

INSTRUCTIONS

Inmates in the Brown County Jail are encouraged to use the established grievance procedure to secure equitable and timely responses and/or solutions to legitimate grievances filed in good faith, without fear of reprisal.

Inmates who abuse the grievance procedure by providing false or misleading information are subject to disciplinary action.

Prior to filing a formal grievance, the inmate must attempt to resolve the issue by speaking with a correctional officer. If the issue can not be informally resolved by the inmate and correctional staff, the inmate must submit a Grievance form to the Housing Officer. The Housing Officer will attempt to resolve the problem. If they are unable to solve the issue, the Housing Officer will enter the Grievance into the computer and forward it to the Housing Corporal.

1. A grievance must be filed within 48 hours of the incident prompting the grievance.
2. The grievance must address only one issue. *PLEASE PRINT NEATLY.*
3. All grievances must be signed by the inmate bringing the grievance forth.
4. The grievance must personally affect you in areas of health, welfare, or in facility operations and services.
5. The grievance must involve a rule, procedure, or complaint of oppression or misconduct by an employee in the administration of such rules.
6. If the grievance is denied by the Housing Corporal, the inmate has 48 hours from the receipt of the denial to appeal the grievance to the *Shift Lieutenant*.

Almost two years later finally getting a ct scan for my chest pain



Aurora Health Care

AURORA BAYCARE MEDICAL Martinez, Francisco

CENTER

MRN: 6121502, DOB: 1981, Sex: M

2845 GREENBRIER RD

Adm: 5/4/2021, D/C: 5/4/2021

GREEN BAY WI 54311-6519

05/04/2021 CT Chest in ABMC Imaging - CT Scan (continued)

Imaging (continued)

Comment - Limitations

Have you had any previous X-rays, CT, MRI, NM, US or PET of the same area as this test?

Information reviewed by:

Date information was reviewed:

End Exam Questions

Answer	Comment
Destination Chart Station:	
Please enter the CT DIvol (mGy) for this examination:	
Please enter the DLP (mGy*cm) for this examination	
Only answer if not dictating in Powerscribe	
PowerScribe: What system will be used for dictation?	

CT CHEST WO CONTRAST

Resulted: 05/04/21 1616, Result status: Final result

Ordering provider: Nathan Thompson, APNP 05/04/21 1419

Order status: Completed

Resulted by: Stephen F Janas, MD

Filed by: Edi, Rad Results In 05/04/21 1619

Performed: 05/04/21 1448 - 05/04/21 1449

Accession number: 105305431074

Resulting lab: AURORA HEALTH CARE RADIOLOGY

Narrative:

EXAM: CT CHEST WO CONTRAST

INDICATION: Intermittent chest wall pain

COMPARISON: None.

TECHNIQUE: Unenhanced CT chest

FINDINGS: Minor biapical pleural parenchymal scarring. Lungs otherwise clear. No suspicious pulmonary nodule. No pneumothorax. No central endobronchial abnormality.

No acute findings in the imaged portions of the upper abdomen. No pleural or pericardial effusion. No enlarged lymph nodes in the chest.

No acute bony findings.

Impression:

IMPRESSION:

1. No acute abnormality. No clear cause for chest pain identified.

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
737 - AHC Radiology	AURORA HEALTH CARE RADIOLOGY	Unknown	Unknown	10/27/10 1742 - Present

Indications

Chest pain, unspecified [R07.9 (ICD-10-CM)]

Signed

Electronically signed by Stephen F Janas, MD on 5/4/21 at 1616 CDT



Aurora Health Care

AURORA BAYCARE MEDICAL Martinez, Francisco

CENTER

MRN: 6121502, DOB: 08/06/1981, Sex: M

2845 GREENBRIER RD

Adm: 2/5/2021, D/C: 2/5/2021

GREEN BAY WI 54311-6519

02/05/2021 - Admission (Discharged) in ABMC East Surgery Center

H&P

H&P by HIM SCANNER at 2/5/2021 1304

Scan on 2/16/2021 11:30 AM (below)

Page 1 of 3

ORTHOPEDICS &
SPORTS MEDICINE
BAYCARE CLINIC

Orthopedics & Sports Medicine BayCare Clinic

2353 S. RIDGE RD

GREEN BAY WI 54304-5069

Phone: 920-288-5555

Fax: 920-288-5550



102-17806258

Francisco Martinez

1/7/2021 11:45 AM Office Visit
MRN: 6121502Description: 35 year old male Provider: Lacey L Jandrin, PA-C Department: Barr Orthopaedics
Dept Phone: 920-288-5555 Encounter #: 10211021811 DOB: 08/06/1981

Progress Notes

Francisco Martinez (MR# 6121502)

Progress Notes Info

Author	Note Status	Last Update User	Last Update Date/Time
Lacey L Jandrin, PA-C	Addendum	Brian J Klika, MD	2/5/2021 8:48 AM

Progress Notes

PROGRESS NOTE

WORKER'S COMPENSATION: NO

DATE OF INJURY: April 2020

PROCEDURE PERFORMED 10/21/20: MRI right hand

SUBJECTIVE: Patient is well known to me and was last seen on 10/2/20. Patient here to discuss MRI results. He reports experience pain with lifting or pressure to palm of hand. He reports he is not able to lift tray. He denies any swelling, numbness and tingling. He is able to make a full composite fist.

Current Tobacco Use: negative

Current Sx's:

Pain: improved

Swelling: improved

Numbness/Tingling: absent

Treatments Attempted:

NSAIDs: NO

Therapy: NO

Narcotics: NO

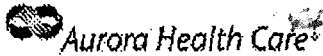
Smoking: NO

That's when my bone in my hand broke

That's 6 months later of me walking around with a broken bone in my hand the whole time and finally sent to the hospital just to get it looked at.

That's me telling the hospital how I cant even pick up a food tray which is light weight and havent been able to since the day it broke. I was constantly telling ASU in Brown County Jail every week for 6 months too.

Martinez, Francisco (MR # 6121502) DOB: 08/06/1981 Printed by [900310] at 2/16/21 6:00 PM Page 1 of 3



AURORA BAYCARE MEDICAL Martinez, Francisco

CENTER

MRN: 6121502, DOB: 08/06/1981, Sex: M

2845 GREENBRIER RD

Adm: 2/5/2021, D/C: 2/5/2021

GREEN BAY WI 54311-6519

02/05/2021 - Admission (Discharged) in ABMC East Surgery Center (continued)

H&P (continued)

Page 2 of 3

This is almost
1 year later finally
getting the surgery
on my hand

OBJECTIVE:**Visit Vitals**

BP	125/83
Pulse	82
Ht	5' 5" (1.651 m)
Wt	63.5 kg
BMI	23.30 kg/m ²

PHYSICAL EXAM:

General: Well-developed, well nourished in no acute distress. Alert and oriented x 3. Vital signs stable, afebrile.

Psych: Mood is ok, affect is smiling. Alert and oriented to person, place, and time.

HEENT: Head is normo-cephalic, atraumatic. Pupils are equal, round and responsive to light and accommodation.

Respiratory: Breathing is unlabored, no wheezing noted throughout exam

Cardiovascular: Radial pulses are palpable and equivalent bilaterally.

Integumentary: Skin is without any rashes, abrasions, or lesions

Musculoskeletal exam:

Right Upper Extremity: Right upper extremity is evaluated, there again was evidence of a mild prominence overlying the metacarpal base of the small finger, on exam today this again was nontender to palpate however with forced end range flexion and extension of the wrist the patient did endorse discomfort again Shuck testing of the small and ring finger did not reveal any significant subluxation or laxity

RADIOGRAPHS:

No images obtained in clinic today

IMPRESSION:

MRI confirmed hamate fracture, chronic, subsequent encounter

PLAN:

I reviewed the above-stated findings with the patient in clinic today. We reviewed the patient's previously obtained x-rays as well as the most recent MRI. Patient states that his symptoms have not gotten any better and in fact have gotten somewhat worse. He states that functionally there is and not anything he can do where he was not experience discomfort. We did review that given the chronicity of his injury a internal fixation of this fracture would not typically be advisable. We could consider resection of the hook of the hamate if he felt as though he had failed all other conservative options. I did have a very frank conversation however with the patient in regards to the potential for this surgical procedure to make his symptoms worse as well as the fact that I do not think even after resection of this that he would be able to complete significant weight-bearing strengthening such as pushups to a significant degree without any anticipated discomfort. Nonetheless he does feel as though this is his last resort in would opt to proceed with surgical intervention.

Confirmation that
the bone in my
hand has been
broken the whole
time.



Aurora Health Care

Surgery was finally performed on this date almost a year later. I was walking around all that time with a broken bone in my hand and never got better

AURORA BAYCARE MEDICAL Martinez, Francisco
CENTER
2845 GREENBRIER RD
GREEN BAY WI 54311-6519

MRN: 6121502, DOB: 08/06/1981, Sex: M
Adm: 2/5/2021, D/C: 2/5/2021

02/05/2021 Admission (Discharged) in ABMC East Surgery Center (continued)

H&P (continued)

Page 3 of 3

Dr. Kilka is the supervising physician of this patient.
Brian Kilka, MD was available at the time of today's evaluation.

2/5/2021 8:48 AM

No change in History and Physical.

ROS-
see HPI; otherwise all negative

Vitals reviewed per EMR.

Physical Exam:
Heart: regular palpable pulse
Lung: breathing at a regular respiratory rate.
Extremities: Unchanged from prior document

Risks, benefits, alternatives, complications, and expected post operative course
discussed with patient and present family members. Patient has elected to proceed
with surgical intervention as scheduled.

I have reviewed the patient's history and personally performed the history of present
illness, physical exam, clinical impressions and plan; also reviewed and verified the
scribed note.

Brian Kilka, M.D.

Links
Previous Version

Encounter Status

Electronically Signed by Lacey L Jandrin, PA-C on 1/7/21 at 14:31

Martinez, Francisco (MR # 6121502) DOB: 08/06/1981 Printed by [900310] at 2/16/21 6:00 PM Page 3 of 3

Electronically signed by Tx. Interface User at 2/16/2021 11:40 AM

Last 3 Days of Notes from 2/2/2021 to 7/29/2021

Brief Op Note from 2/2/2021 to 7/29/2021

Alyssa S Schultz, PA at 2/5/2021 1012 from 2/2/2021 to 7/29/2021

Printed on 7/29/21 10:33 AM

Page 23



Aurora Health Care

AURORA BAYCARE MEDICAL Martinez, Francisco

CENTER

MRN: 6121502, DOB: [REDACTED] 1981, Sex: M

2845 GREENBRIER RD

Adm: 2/5/2021, D/C: 2/5/2021

GREEN BAY WI 54311-6519

02/05/2021 - Admission (Discharged) in ABMC East Surgery Center (continued)**Last 3 Days of Notes (continued)** from 2/2/2021 to 7/29/2021**Brief Operative Note****Patient:** Francisco Martinez 39 year old male**MRN:** 6121502**Surgeon(s):** Brian J Klika, MD

Phone Number: 920-288-5555

Surgeon(s) and Role:

* Brian J Klika, MD - Primary

Assistant(s): Alyssa S Schultz, PA**Pre-Op Diagnosis:** Hook of right hamate fracture**Post-Op Diagnosis:** same**Procedure:** Procedure(s):

Right Hamate Hook Excision

Anesthesia Type: General**Complications:** None**Description:** see op note**Findings:** see op note**Specimens Removed:** No specimens collected**Estimated Blood Loss:** No Value minimal**Assistant Tasks:** see op note**Implants:** * No implants in log *

I was present for the key portions of the procedure and was immediately available for the non-key portions

Electronically signed by Alyssa S Schultz, PA at 2/6/2021 11:41 AM
Electronically signed by Brian J Klika, MD at 2/8/2021 2:09 PM

PERSONAL TRANSITION PLAN

Name: Francisco Martinez

ID Number: 17075-089

Key Action Plan

First 5 things I need to accomplish before my release

1. Acknowledge my mistakes that I made (completed)
2. Get vocational training
3. Get academic training (completed)
4. Think of ways I can stay productive when released (completed)
5. Establish goals to achieve (completed)

First 5 things I need to accomplish at the RRC

6. Get a reliable vehicle to get to work
7. Get a job
8. Get a cellphone so I'm available to get in contact with
9. Adjust a financial plan
10. Create a resume

A. Transportation / Drivers License:

Driver's License YES ☒ NO ☐

Reinstatement only ☐

Fines and Tickets ☐

Child Support related ☐

Never had a DL ☐

B. Release Residence Address:

Address: 716 North 3rd St. Rochelle, IL 61068

Phone #'s 815-762-9381

Person you will live with: Stephani Martinez

Relationship: Wife

Rent ☒ N If yes, how much? \$800 a month

Why is this a good choice?

It will bring my family back together instead of split up and
separated.

C. VOCATIONAL/CAREER:

Do you have any employment waiting? Yes X No

Name of employer and key contact:

CST Industries

Date to Begin: ASAP

My Holland Code E/C, S

Highest score: 3

Second highest score: 2

My Holland Code: Enterprising and Conventional

My personality type: Social

Employment History:

CNC operator, forklift operator (stand up and sit down),

Institution Work History:

Orderly, GED Tutor, Culinary Arts

Key Skills:

Strong desire to attain organizational goals, orderly, persistent,
calm, prefer well-ordered environments

Training and Certification:

Forklift certified, CNC operator, machine shop

Career Development Plan:

Become a small business owner

Resume: (YES) NO

Employment plans: (Also list key contacts for networking for a job)

Go back to former employer and continue education

Name of business is CST Industries in Dekalb, IL.

D. Legal Concerns:

Any current legal problems (taxes, child support, tickets, etc.)

N/A.

Treatment /Cognitive progress:

Cognitive programs completed: Drug Education

Area of significant change: I realized how bad drugs really affect people and the environment and my community.

Plan for continuing growth in this area: Speak against drugs to anyone around me and point out all the flaws of drugs.

E. Educational Concerns:

High School degree or GED GED

College _____

Vocational Training: Culinary Arts

Technical Training: Forklift, osha

Other: Adult Continuing Education

F. Probation / Parole:

USPO: Rochelle, Illinois

Sentencing District Address: Green Bay, WI.

Term of Supervised Release: 5

Restitution: 0

Special conditions:

Testing b UA every month and drug treatment

Subject to monitor of personal property and belongings

G. Outline for accountability and Prosocial development

Support Group/aftercare group N/A

Church / Pro Social Group : Family support group

Club / Organization / Team : Involvement in childrens sports

Mentor / Sponsor : Stephani Martinez / wife

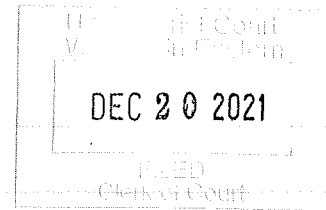
H. Leisure and Recreation Plan:

What will you do for fun and recreation? Go hiking with my family

What is your plan for boredom?

Cook for my family, watch a movie with my family, clean, or work out

Additional Comments



Judge Griesbach,

I'm sending you a copy of my first compassionate release request that was back in September of 2021. I got denied and sent another request in November but with a little more detail this time and got no response back. So after waiting about a month or so, I asked my counselor D. Meier about the status of it so he told me to send an electronic message to the Unit Manager who is named D. Lee-Lo. (I printed a copy of that message and am sending that to you with this). So then I sent a message to D. Lee-Lo and he told me to send a message to Ms. Fogt (CMC) so I did and she replied saying that she will process it as soon as possible. (There is a printed copy of that correspondence for you to view also). Two weeks later after that which totaled up to about 1 1/2 months, I still haven't gotten a response back about the recent compassionate release request so I wrote a BP-9 about it and made a copy for you also. I recently saw in a fifth circuit case *United States v. Garrett*, 15 F. 4th 335 (5th Cir. 2021) that an inmate may wait 30 days after filing his compassionate release request and whether the ~~BOP~~ BOP has ruled on the request or not, he is free to file a motion in the district court. So with me already filing my compassionate release request back in September and getting denied and then filing another one in November and not getting a response back over 30 days ~~even~~ even after attempting to contact multiple BOP employees along with filing a ~~BP~~ BP-9, I have exhausted the administrative remedies and am now filing a motion

for a compassionate release to the district court.

Sincerely,
Francisco Martinez