

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-151

FRANCISCO MARTINEZ,

Defendant.

**ORDER DENYING MOTION FOR
RECONSIDERATION – COMPASSIONATE RELEASE**

Defendant Francisco Martinez entered a plea of guilty to the charge of conspiracy to distribute 5 kilos or more of a controlled substance, contrary to 21 U.S.C. §§ 846 and 841(b). Martinez faced a 120-month mandatory minimum, but on April 22, 2021, this Court sentenced Martinez to 116 months and 26 days, crediting Martinez for time spent in state custody on Brown County Case No. 19CF827. His sentence has since been reduced to 84 months (7 years). He is currently serving his sentence at FCI Oxford. On December 20, 2021, Martinez filed a request for compassionate release and that motion was denied on August 22, 2022. The court found no circumstances asserted warranted the extraordinary relief requested under 18 U.S.C. § 3582(c)(1)(A)(i). Martinez requested compassionate release indicating the issues with his children; that he wishes to see his grandparents before they pass away; that he experiences chest pains diagnosed as GERD; that he attended many programs to better himself; and that he doesn't "need a 10 year sentence" to comprehend his faults and change. Dkt. No. 336 at 4–7. In Martinez' motion seeking reconsideration, he lists random infractions of jail personnel unrelated to his requests, states his concerns about staff bringing COVID into the prison facility, lists concerns

about “long covid” which he doesn’t purport to have, expresses concern about an unrelated issue with delayed treatment for his hand, and then proceeds to address letters written by his children alleging that he is needed to care for them. Martinez submits no medical or other records supporting his contentions. The court previously addressed these issues and Martinez submits no new facts that would entitle him to relief.

Unfortunately, the incarceration of an individual typically has detrimental effects on loved ones and those factors should counsel against involvement in criminal activity. Martinez argues that he should be released immediately to care for his children because their mother is currently incapacitated due to her violent behavior and debilitating drug addiction. He cites Judge Adelman’s decision granting a motion for compassionate release in *United States v. Turner*, No. 18-CR-142, 2020 WL 5717096 (E.D. Wis. Sept. 24, 2020), as support for his argument. In *Turner*, the mother of the defendant’s child was murdered. This fact and other considerations led Judge Adelman to conclude that the defendant’s motion for compassionate release should be granted. I am not convinced that the incapacitation of the mother of a defendant’s children due to her drug addiction similarly warrants such relief. The defendant is, after all, serving a sentence for drug dealing, the very type of conduct that leads to the consequences he now claims entitle him to early release.

Moreover, Martinez was not a minor street level dealer from all appearances. He was pulled over in Arizona by a state trooper who found over \$77,000 of U.S. currency in a trap compartment in the car he was driving while on his way to make a drug purchase in California. Presentence Investigative Report (PSIR) ¶ 16. He was also pulled over in Fond du Lac County, Wisconsin after delivering approximately 1,000 fentanyl tablets to co-conspirators in Green Bay. *Id.* ¶ 17. Martinez was also supplying kilogram quantities of cocaine. *Id.* ¶¶ 18–21. The

magnitude of his crime warrants a significant sentence to achieve the important goals of imposing just punishment and strong deterrence.

Finally, the court has already taken into consideration the changes that have occurred in the law under the First Step Act in my earlier reduction of Martinez' sentence to a term of 84 months. To reduce his sentence further at this point would unduly depreciate the seriousness of the offense. This is not to ignore the serious consequences that the absence of a good father can have on children. Nor does the court intend to suggest that foster placement is a suitable alternative to a child's own parents. But having dependent children does not insulate one from the consequences of serious criminal conduct. If it did, courts would be constantly bombarded with similar motions for compassionate release. Good fathers avoid engaging in the type of conduct that can result in their forced absence from their children's lives. Given the reductions of his sentence I have already ordered, Martinez will soon be back with his children. One can only hope that he will spend the rest of his life making up to them the damage he has caused them and perhaps pass on to them the importance of avoiding criminal conduct so that they can become good citizens and fathers and mothers themselves.

In any event, for the reasons set forth here and in the court's previous order (Dkt. No. 401), Martinez' motion for reconsideration (Dkt. No. 404) is denied.

SO ORDERED at Green Bay, Wisconsin this 20th day of June, 2023.

s/ William C. Griesbach

William C. Griesbach
United States District Judge