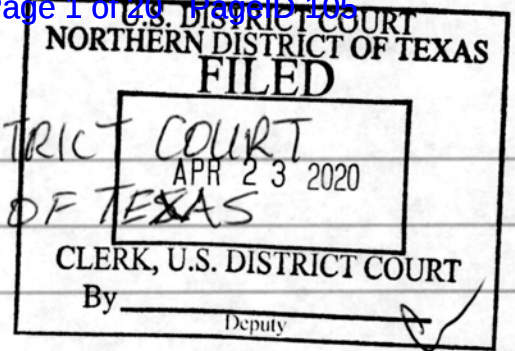


UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS



UNITED STATES OF AMERICA § EMERGENCY COVID-19 FILING  
V. § NO. CR3-90-008-D  
CHARLES JACKSON MOORE §

EMERGENCY MOTION FOR REDUCTION IN  
SENTENCE PURSUANT TO USC 18 § 3582 (c) (1)(A)(i)

TO UNITED STATES DISTRICT JUDGE FITZWATER

Defendant, Charles Jackson Moore, files this emergency motion to resentence him to a sentence of imprisonment of time-served or, alternatively, a sentence of time-served followed by a term of supervised release not to exceed the balance of his original prison sentence, pursuant to 18 U.S.C. § 3582 (c)(1) (A)(i), as amended by § 603(b)(1) of the First Step Act of 2018, Pub. L. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018).

I.

Moore plead guilty to one count of bank robbery 18:2113(A) pursuant to a plea agreement in July of 1990. The Court assessed punishment at 150 months in prison and a term of Supervised Release of 36 months. He has been confined for more than

31 years 8 months continuously since 1988. He has served 74.4% as of 11-05-2019. See attached Exhibit #1a. His time spent in the BOP has been exemplary. He has spent his time working hard, taking classes, helping others as a Resident Care Attendant until health issues slowed him down. His age at 79 and confinement have taken their toll on his body, but otherwise his confinement has been routinely uneventful until now.

## II.

COVID-19 has unleashed itself on the BOP population and staff throughout the United States. A short week and a half ago it was FCI Oakdale. With deaths and numerous severely ill. Now FMC FT Worth is being hit. COVID-19 cases started showing up here a week ago. Now this facility is literally "God's waiting room". This facility while represented as a Federal Medical Center has not been certified as such for some time now and has failed after many attempts to regain and or acquire in addition to its medical credentials, its mental health certification. It failed again. FMC FT-Worth is now nothing more than a de facto Death Row

for elderly and sick offenders. Now people are just getting sick back to back. Staff and inmates are unsure how to protect themselves AS PPE is in short supply and social distancing is simply not possible given the crowded conditions and already unhealth population.

Today Saturday April 18, 2020 staff quit transferring inmates to isolation and to further conserve PPE and valuable testing resources, BOP is now assuming that anyone who presents with symptoms is positive. The virus is rampant. Moore is staying in his bunk except for restroom or shower purposes with a mask and sheet covers over his head to protect himself from COVID-19.

Moore files this emergency motion for relief from this sentence because time is of essence. The BOP simply can not ensure his health or safety at this point. Moore's efforts to exhaust his administrative remedies have been fruitless with denial after BOP officials at FTWORTH put him in + regional then denying him, the BP process administrative remedies having collapsed at FTWORTH FMC, and the extraordinary circumstances of the spread of COVID-19 at FMC FTWORTH and his heightened risk AS a 79 year-old-man with serious medical conditions - he cannot wait any longer to seek compassionate release under 18 USC § 3582 (c) (1) (A) (i).

### III.

Moore presents with a history of malignant hypertension, lung scarring from pneumonia episodes traced back to gall bladder laparoscopy 7/16/19.

See attached exhibit #2 and #2 A. Additional medical records are not available to inmates at this time due to lock down in place. Request for records are being unanswered to inmates.

Additional records of education and work history are also not being provided.

Moore does have a copy of his Recidivism Score (PATTERN) given to him on 12-10-2019 for First Step Act showing Eligible and a Recidivism Risk level of (Low). See Attached Exhibit #3.

Given his health condition, age, time-served with only 8 months to Home Detention of 12-07-2020 and to 06-07-2021 to complete prison sentence discharge Moore is the picture of Attorney General Barr's directive to the BOP to release these offenders on March 26, 2020. <sup>① note</sup> Yet Moore languishes in Prison as the BOP struggles to comply.

## IV.

For many years, 18 USC § 3582 (c)(1)(A) has allowed district courts to reduce sentences of federal inmates for "extraordinary and compelling reasons," often referred to as "compassionate release." Until December 21, 2018 only the BOP could request such a reduction in sentence.

Under the First Step Act, BOP no longer has a monopoly on the decision whether to file "compassionate release" motions. Rather, federal inmates may file them with the original sentencing court. 18 USC § 3582 (c)(1)(A), as amended by § 603 (b)(1) of the First Step Act of 2018, Pub. L. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018).

The Sentencing Commission policy statement on reductions of sentences under 18 U.S.C. § 3582 (c)(1)(A) lists three specific categories of "extraordinary and compelling reasons" but expressly does not restrict what combination of factors can warrant release. U.S.S.G. § 2B1.13 (p.s.) comment. (n.1(A)-(D)).

The three specific categories are: (1) terminal illness of the inmate, or an irrecoverable serious

physical, medical, or mental issue that prevents the inmate from providing himself with self-care within the prison; (2) age of defendant, combined with a serious deterioration in physical or mental health because of the aging process; and (3) death or incapacitation of the caregiver of the inmate's minor children, or incapacitation of the inmate's spouse or partner. See U.S.S.G. § 1B1.13 (ps), comment. (n.1(A)-(C)).

V.

"Extraordinary and compelling reasons" warrant a reduction of Moore's sentence and immediate release from confinement. The rampant spread of COVID-19 in FT-Worth Federal Medical Center, especial hard hit is the Unit "San Antonio" where Moore resides with approximately 270 other inmates. As of April 17, 2020 staff stated 16 positive cases and appx 38 other inmates showing signs and awaiting testing. The next day April 18, 2020 several more inmates presented with symptoms and were refused removal to isolation from the current status of "Quarantine" of San Antonio Unit due to no bed space at this point in isolation. No one knows how many inmates from other units on the compound are

affected other than they are. Staff is extremely short with mandatory overtime, and staff refusing to work in the housing units fearing their own infection. The entire compound is on lockdown 24 hours a day now for over 12 days and we are told will remain this way till 14 days past the last known positive case. Staff is over worked, doing all laundry, preparing meals, removing trash etc. It is not a sustainable environment. The BOP can not protect Moore at this point and makes it an unsafe place for a 79-year-old man with a myriad of health conditions stated by the C.D.C. as high risk of severe illness and death to include malignant hypertension, Cardiac Disease, Pulmonary Disease, History of Cancer, and Border line Diabetes.

A sentence reduction is consistent with and supported by the factors in 18 USC § 3553(a), whose consideration is mandated by § 3582(c)(1)(A) "to the extent they are applicable." (1) "the history and characteristics of the defendant," 18 USC § 3553(a)(1); and (2) "the need for the sentence imposed... to provide the ~~the~~ defendant with... medical care... in the most effective manner," 18 U.S.C. § 3553(a)(2)(D).

First, Moore's age and vulnerability to COVID-19

Weigh in favor of reducing his sentence. Second, he is a non-violent offender confined in a minimum-security medical facility and poses a low risk of recidivism. Third, his conduct in prison weighs heavily in his favor. Fourth, he has a re-entry plan that will prevent recidivism and ensure his health and safety as well as the public's health and safety should the Court reduce his sentence.

His adopted niece of over 30 years, Trish Beck can pick him up from the FT. Worth facility within 24 hours of this Court granting the motion and ordering his release from prison. She will drive him to her residence ~~is~~ at 1124 Clayton Lane Apt K, Austin, Texas 78723 where he will reside with Ms Beck during any period of supervised release. He will self-quarantine at home as long as necessary to ensure his health and safety and that of others.

Note: See Exhibit 4+4A Bureau of Prison's Health Services Clinical Encounter - Administrative Note Date 01/07/2020 Provider: Silva, Joelle LMSW.

Moore was put in for First Step Act Direct Home Confinement. An assessment was completed to include a visit by US Probation



to Moore's listed address in Austin and was approved. Subsequently according to Case Manager Rupe when the file was approved by FMC FT WORTH and forwarded to regional it was turned down for an Escape Charge date back to 1990 that was dropped in 1998 that related to a Half House.

Moore is 79 yrs old; will turn 80 MAY 10, 2020. He will qualify for his Social Security Income and Medicare upon release as noted in the above referenced Administrative Note. In sum, the § 3553 (a) factors weigh heavily in Moore's favor.

This Court is in the business of weighing equities to make consequential decisions. Yet, other than habeas corpus proceedings in death penalty cases, few prior cases could have presented the potential, if not likely, life-or-death consequences that this case presents. The Court should grant this motion because so rarely do justice and mercy require the same result. See *Walker v Martel*, 709 F. 3d 925, 950-51 (9th Cir. 2013) (Gould, J., concurring in part & dissenting in part).

## CONCLUSION

After more than 31 years of confinement, the loss of the better part of his mid-life years, and facing imminent grave illness or death, Charles Moore is prepared to walk humbly in his final years in this world. He respectfully requests that the Court grant this motion and re-sentence him to a sentence of imprisonment of time served, or alternatively, a sentence of time served followed by a term of supervised release not to exceed the balance of his original prison sentence. Should the Court require additional development of the record, before it rules on this motion, or finds this motion deficient in any manner, Moore filing Pro Se, requests that counsel be appointed to cure such deficiencies and represent him before this Honorable Court.

Dated:  
April 18<sup>th</sup>, 2020

Respectfully submitted,  
X Charles J Moore  
PRO SE  
Charles Jackson Moore R# 25596-079  
FT Worth Federal Medical Center  
PO. Box 15330  
FT. Worth, TX 76119

FTWEW  
PAGE 002

\*  
\*

PUBLIC INFORMATION  
INMATE DATA  
AS OF 11-05-2019

\*  
\*

11-05-2019  
12:38:21

11/05  
2019

REGNO...: 25596-079 NAME: MOORE, CHARLES JACKSON

RESP OF: FTW

PHONE...: 817-534-8400 FAX: 817-413-3350

HOME DETENTION ELIGIBILITY DATE: 12-07-2020

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
THE INMATE IS PROJECTED FOR RELEASE: 06-07-2021 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 020 -----

COURT OF JURISDICTION.....: TEXAS, NORTHERN DISTRICT  
DOCKET NUMBER.....: CR3-90-008-D  
JUDGE.....: FITZWATER  
DATE SENTENCED/PROBATION IMPOSED: 07-27-1990  
DATE COMMITTED.....: 08-06-2010  
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT  
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$50.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 551 18:2113 ROBBERY BANK  
OFF/CHG: 18:2113(A) BANK REOBBERY, A CLASS C FELONY

SENTENCE PROCEDURE.....: 3559 SRA SENTENCE  
SENTENCE IMPOSED/TIME TO SERVE.: 150 MONTHS  
TERM OF SUPERVISION.....: 3 YEARS  
DATE OF OFFENSE.....: 08-30-1988

Exhibit # 1

11/05  
2019

FTWEW \*  
PAGE 003 OF 003 \*

PUBLIC INFORMATION  
INMATE DATA  
AS OF 11-05-2019

\* 11-05-2019  
\* 12:38:21

REGNO...: 25596-079 NAME: MOORE, CHARLES JACKSON

RESP OF: FTW  
PHONE...: 817-534-8400 FAX: 817-413-3350

-----CURRENT COMPUTATION NO: 020 -----

COMPUTATION 020 WAS LAST UPDATED ON 01-11-2011 AT DSC AUTOMATICALLY  
COMPUTATION CERTIFIED ON 01-12-2011 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN  
CURRENT COMPUTATION 020: 020 010

DATE COMPUTATION BEGAN.....:	07-17-2010		
TOTAL TERM IN EFFECT.....:	150 MONTHS		
TOTAL TERM IN EFFECT CONVERTED...:	12 YEARS	6 MONTHS	
EARLIEST DATE OF OFFENSE.....:	08-30-1988		
TOTAL PRIOR CREDIT TIME.....:	0		
TOTAL INOPERATIVE TIME.....:	0		
TOTAL GCT EARNED AND PROJECTED...:	588		
TOTAL GCT EARNED.....:	486		
STATUTORY RELEASE DATE PROJECTED:	06-07-2021		
EXPIRATION FULL TERM DATE.....:	01-16-2023		
TIME SERVED.....:	<u>9 YEARS</u>	<u>3 MONTHS</u>	<u>20 DAYS</u>
PERCENTAGE OF FULL TERM SERVED...:	<u>74.4</u>		

PROJECTED SATISFACTION DATE.....: 06-07-2021  
PROJECTED SATISFACTION METHOD...: GCT REL

Exhibit # 1 A

G0000 TRANSACTION SUCCESSFULLY COMPLETED

**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

---

Inmate Name:	MOORE, CHARLES JACKSON	Reg #:	25596-079
Date of Birth:	05/10/1940	Sex:	M Race: WHITE
Note Date:	07/11/2019 12:50	Provider:	Amaechi, O. RN
		Facility:	FTW
		Unit:	S04

---

Admin Note - Community Hospital Report encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**

**Provider:** Amaechi, O. RN

Community hospital report from JPS hospital E3 unit, form nurse Nyokabia RN.

Admitted on 07/03/19 for sepsis and altered mental status. Hospital diagnosis right lower lobe pneumonia traced back to gallbladder. On 7/6/19 underwent laparoscopy cholecystectomy with IOC. 7/8/19. ERCP. Have history of HTN, cardiomyopathy, glaucoma. On regular diet, surgical site secured with demo bound.

**Copay Required:** No

**Cosign Required:** No

**Telephone/Verbal Order:** No

Completed by Amaechi, O. RN on 07/11/2019 13:02

still having shortness of breath with little effort. 150 yds out of breath

Exhibit #2

FMC Fort Worth

25596-079

**Moore, Charles J**

MRN: 51365970

Anesthesia Preprocedure Evaluation Date of Service: 7/6/2019 ;9:25 AM

Creation Time: 7/6/2019 ;9:25 AM

**Merchant, Munir S, MD**

Anesthesia

Anesthesia Review of Systems/Med Hx

Brief Hx: choledocholithiasis

- \* no history of anesthetic complications:
  - \* PONV Apfel Score: 1
  - \* All patient medications were reviewed
  - \* Patient summary reviewed
  - \* Nursing notes reviewed
- NPO status: Patient is NPO > 8 hrs  
No difficult IV access

<p><b>Pulmonary</b> - Chest xray reviewed</p> <p>Comments: CXR 7/3/19 <b>FINDINGS: No acute lung infiltrates are seen. There is mild eventration of the anterior aspect of the right hemidiaphragm. Heart size is normal. No pleural fluid. Moderate degenerative spondylosis of the spine.</b></p> <p><b>IMPRESSION:</b> <b>1. No acute cardiopulmonary disease</b> (+) sleep apnea clinically suspected,</p>	<p><b>Cardiovascular</b> - ECG reviewed</p> <p>Comments: EKG 7/3/19</p> <p><b>Sinus rhythm</b> <b>Intraventricular Conduction Delay</b> <b>Voltage criteria for LVH</b> Exercise Tolerance: &gt;4 METS Is patient taking beta blockers?: Yes and taken within 24 hours (Carvedilol 12.5 mg PO @ 07/06/19 at 1821 hour) (+) hypertension poorly controlled, dyslipidemia,</p>
<p><b>Neuro/Psych</b></p> <p>Comments: <b>Degenerative disc disease Lumbar/thoracic spine</b></p> <p><b>Blindness Right Eye</b> (+) neuropathy, back / neck pain,</p>	<p><b>GI/Hepatic/Renal</b></p> <p>Comments: <b>choledocholithiasis</b> (+) GERD well controlled,</p>
<p><b>OB/GYN</b></p> <p>No LMP for male patient. No obstetric history on file. Unknown</p>	<p><b>Immune/ID/Musc</b> - negative neuromusculoskeletal ROS</p> <p>(-) current infection</p>

Get me tested FOR THIS →

Exhibit # 2 A

0

DATE REVIEWED: 12-10-2019

INSTITUTION: FMC FORT WORTH UNIT: SAN ANTONIO

INMATE NAME: Moore REG NO: 25596-079

**FIRST STEP ACT** (Circle One):

ELIGIBLE

/

INELIGIBLE

**RECIDIVISM RISK LEVEL** (Circle One):

MINIMUM

LOW

MEDIUM

HIGH

Exhibit # 3

**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name: MOORE, CHARLES JACKSON	Reg #: 25596-079
Date of Birth: 05/10/1940	Sex: M Race: WHITE Facility: FTW
Note Date: 01/07/2020 12:18	Provider: Silva, Joelle LMSW Unit: S04

Social Work - Release Planning encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**

**Provider:** Silva, Joelle LMSW

**Inmate to Social Work for First Step Act Direct Home Confinement Assessment:**

SW received a call from the inmate's CM stating he had received an approved release plan from the USPO and he was wanting to submit the inmate for Direct Home Confinement under the Eligible Elderly Offender criteria.

*enw  
3/12/2020*

Inmate Moore is a 79-year-old Care 3 Medical, Care 1 MH inmate designated to FMC Fort Worth. He has a GCT DOR of March 12, 2021. He meets the age criteria of being over 60 years old, and has served greater than two-thirds of his time, having served 77.7% or 2 years, 3 months and 29 days as of today. According to his unit team, he does not have a prohibited offense or offense hx.

The inmate presented today as instructed to health services. He was awake, alert and orientated in all spheres with clear and linear thinking. His affect was pleasant and upbeat. He was dressed appropriately in the day inmate uniform. He was clean and neat in his appearance, also appearing well groomed. He was able to ambulate across the compound to health services and up a flight of stairs to my office without assistance. He functions independently on the compound and is independent in all of his ADL's and IADL's at this time. Overall, he appears and functions significantly younger than his actual age.

He has an approved plan from US Probation to the Western District of Texas. He states he will live with a friend of his, Trish Beck, whom he states he has known for over 30 years. The residence is a town home located at 1124 Clayton Lane, Apt K., Austin, Texas 78723.

Given he is 79 years old, he will qualify for his Social Security Income upon release. Given he has missed Medicare open season, he will have his Part A upon release, but will not be eligible for Part B or D until 2021. In the interim, he will have to enroll in the county health care system for routine medical care and to manage his chronic, on-going medical issues. The inmate also believes he may also qualify for VA benefits and states he was receiving them prior to incarceration and believes he will qualify again post release.

He appears to meet all the criteria set forth in the Operations Memorandum dated April 4, 2019, Home Confinement under the First Step Act. Social work remains available as necessary and appropriate.

**Copay Required:** No

**Cosign Required:** No

**Telephone/Verbal Order:** No

Completed by Silva, Joelle LMSW on 01/07/2020 12:53

Requested to be reviewed by Baruti, A. MD.

Review documentation will be displayed on the following page.

*Exhibit 4*



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
PROBATION OFFICE

JAMES R. GOLDEN, JR.  
CHIEF PROBATION OFFICER  
SAN ANTONIO - ADMINISTRATION

VICTOR CALDERON  
DEPUTY CHIEF PROBATION OFFICER  
SAN ANTONIO - ADMINISTRATION

ADMINISTRATION  
727 E. CESAR E. CHAVEZ BOULEVARD, SUITE A-405  
SAN ANTONIO 78206-1206



2450 STATE HIGHWAY 118  
ALPINE 79830-2020

501 WEST FIFTH STREET, SUITE 2100  
AUSTIN 78701-3822

111 E. BROADWAY STREET, SUITE 200  
DEL RIO 78840-5573

700 E. SAN ANTONIO AVENUE, SUITE 500  
EL PASO 79901-7009

100 E. WALL STREET, SUITE P-111  
MIDLAND 79701-5200

410 S. CEDAR STREET  
PECOS 79772-3200

727 E. CESAR E. CHAVEZ BOULEVARD, SUITE B-310  
SAN ANTONIO 78206-1200

800 FRANKLIN AVENUE, SUITE 100  
WACO 76701-1934

December 20, 2019

AUSTIN

Case Manager J. Rupe  
FMC Fort Worth  
3150 Horton Road, Fort Worth, Texas 76119

RE: Moore, Charles  
Reg. No.: 25596-079  
RELEASE PLAN- APPROVED

*Region Denied me  
Direct Home Confinement.  
No Halfway will take me - can't pay  
them - too old and sick to work. The only  
place I have to go is the address - otherwise  
I am homeless at 80 years old (may 10, 1940).*

Dear Case Manager Rupe,

My investigation determined the inmate's pre-release plan has been APPROVED. The pre-release investigation revealed the following:

*still good for now.*

Residence/Family: On December 20, 2019, I met with the inmate's associate, Trish Buck, at the defendant's proposed residence of 1124 Clayton Lane, Apartment K, Austin, Texas 78753. She walked me through the two-bedroom, two-bath apartment on the first floor. She resides alone in the residence. Ms. Buck indicated she views the defendant as an uncle. She indicated they have known each other for over 30 years.

Ms. Buck indicated there are no firearms in the residence, and none were observed.

The residence is on a bus line.

Employment: The inmate is currently unemployed.

Special Conditions: The defendant shall not possess firearms and shall participate in group counseling as directed by the probation office

*Exhibit 4A*

**Plan:** The inmate's the proposed release site is **APPROVED**.

Should you have any further questions or need further assistance, feel free to contact me at (512)391-8737.

Sincerely,



Linda Cano  
U.S. Probation Officer

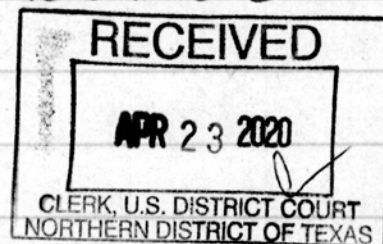
LC

cc: LaTanya Robinson, Community Corrections Manager, San Antonio, Texas

Exhibit 4A

TO: US FEDERAL JUDGE  
Sidney A. Fitzwater

Date: 04-18-2020



United States of America

v

C# 4:15-CR-80-01

Charles Jackson Moore

Please find my enclosed Pro Se Motion for  
Emergency COVID-19 Reduction in Sentence  
Purouant to 18 USC § 3582 (c)(1)(A)(i). I am  
filing hand written as we have no access to type-  
writers due to lockdown and quarantine here at  
our facility Federal Medical Facility FT Worth.

X Charles J Moore  
Charles J. Moore  
R# 25596-079

Return Address: Charles Moore  
Federal  
FT Worth Medical Medical Center  
PO. Box 15330  
FT Worth, Tx 76119

Charles J. Moore  
FT Worth Federal Medical Center  
P.O. Box 15330  
FT. Worth, TX 76119

RECEIVED-5  
APR 23  
MAIL ROOM

↔25696-079↔  
Sidney A. Fitzwater  
U.S. Federal Judge  
1100 Commerce ST  
Earle Cabell FED BLDG  
Dallas, TX 75242  
United States

