

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF  
AMERICA,

Plaintiff,

v.

DARRELL BAKER,

Defendant.

Case No. 20-20355

Honorable Laurie J. Michelson

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**ORDER DENYING WITHOUT PREJUDICE DEFENDANT’S  
MOTION FOR REDUCTION IN SENTENCE [38]**

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Less than a month and a half into his prison sentence, Darrell Baker seeks compassionate release due to medical issues and complications from his poorly controlled diabetes. He says the prison “appears” to be unable to care for his severe health conditions. But it is too early to tell. So the motion will be denied without prejudice.

**I.**

Darrell Baker submitted a false application for funds from the Paycheck Protection Program during the coronavirus pandemic. (ECF No. 17.) He received \$590,000 and was able to withdraw \$172,000 before the remaining funds were frozen. (*Id.*) For this conduct, Baker pled guilty

to one count of bank fraud and one count of money laundering. (*Id.*) He was sentenced below the guidelines range to 24-months' imprisonment on July 13, 2022. (ECF No. 31.)

Baker self-surrendered to Federal Correctional Institution Milan on January 14, 2022 to begin serving his sentence. (ECF No. 38, PageID.309; ECF No. 41, PageID.379.) Just forty-two days later, he filed this motion for compassionate release. (ECF No. 38.) Baker suffers from Type 2 diabetes, hypertension, and hyperlipidemia. Prison medical records indicate that he has been seen by doctors and prescribed medications and insulin for these conditions. (ECF No. 38-3.)

But since he has arrived at the prison, Baker says he has experienced dangerously high blood-sugar levels, despite receiving daily insulin shots. When his blood sugar is high, Baker receives extra insulin. Baker explains that “[o]n at least five occasions since he entered BOP last month, [his] blood sugar has gone over 400, and he needed to receive the highest dose of 15 units of extra insulin. His blood sugar has been elevated above 300 on nine other occasions, and above 251 on five more occasions.” (ECF No. 38, PageID.309.) Thus, “[a]ltogether, he has needed extra insulin above his regular prescription nearly half of his days in BOP

custody.” (*Id.*) To put this in context, a normal person’s blood sugar level is less than 140. (*Id.*)

Baker is understandably concerned that these high blood-sugar levels could result in long-term health consequences, like diabetic ketoacidosis. (*Id.* at PageID.306.) He says he has started experiencing neuropathy in his feet, which are swollen and going numb. (ECF No. 38, PageID.306.)

On January 21, 2022, only one week after Baker reported to Milan, Baker’s counsel wrote to the warden to request compassionate release. (ECF No. 38-2.) He argued that Baker’s diabetes, hypertension, and hyperlipidemia constitute extraordinary and compelling reasons for a reduction in the sentence. (*Id.*) The warden has not responded.

In his motion before this Court, Baker again contends that his extraordinary and unique medical condition warrants compassionate release. (ECF No. 38.) Baker recognizes, however, that under current controlling law “his vaccination mitigates against COVID-19 as a basis for release in his case.” (ECF No. 38, PageID.313.) So the Court does not interpret Baker’s motion as being COVID-related.

The government opposes the motion. The government believes that diabetes and hypertension are common ailments routinely managed by the BOP and that the Milan medical staff are managing Baker's health issues appropriately. (ECF No. 41.) The government also does not believe that an evaluation of the sentencing factors under 18 U.S.C. § 3553(a) warrants a sentence reduction. (*Id.*)

The Court agrees that the BOP is attempting to manage Baker's diabetes. While the Court understands that there are potential health consequences from delay, the BOP should be given more than a week and even more than a month to try to regulate Baker's glucose levels. Baker, too, as a first-time inmate, needs to learn how to manage his diabetes more effectively in a custodial setting. (ECF No. 42, PageID.493.) Thus, the Court believes that the motion is premature.

## II.

A district court generally "may not modify a term of imprisonment once it has been imposed." 18 U.S.C. § 3582(c). But one exception to this rule is compassionate release. The compassionate release statute allows the Court to reduce a defendant's sentence if it finds, after a defendant has exhausted his administrative remedies or upon the lapse of 30 days

from the receipt by the warden of a request for compassionate release, that “extraordinary and compelling reasons” warrant a reduction; that a reduction is “consistent with applicable policy statements issued by the Sentencing Commission”; and that the sentencing factors under 18 U.S.C. § 3553(a), to the extent they apply, support a reduction. 18 U.S.C. § 3582(c)(1)(A). “In cases where incarcerated persons file motions for compassionate release, federal judges may skip step two of the § 3582(c)(1)(A) inquiry and have full discretion to define ‘extraordinary and compelling’ without consulting the policy statement § 1B1.13.” *United States v. Jones*, 980 F.3d 1098, 1111 (6th Cir. 2020).

**A.**

The statutory exhaustion requirement is mandatory. *United States v. Alam*, 960 F.3d 831, 832 (6th Cir. 2020). The government acknowledges that “Baker appears to have administratively exhausted his claim by waiting thirty days to file the instant motion after sending his request for a sentence reduction to the warden.” (ECF No. 41, PageID.384.)

**B.**

According to the CDC, “[m]ore than 37 million Americans have diabetes (about 1 in 10), and approximately 90-95% of them have type 2

diabetes.” *Type 2 Diabetes*, Centers for Disease Control and Prevention (CDC), <https://perma.cc/Q7GZ-LRVX>. This includes many inmates. Indeed, the Bureau of Prisons has detailed clinical guidance, entitled *Management of Diabetes*, that provides recommendations for the medical management of inmates with diabetes. (ECF No. 41-1.) “Due to its prevalence, diabetes cannot be deemed ‘extraordinary’ in order to merit compassionate release.” *United States v. Labra*, No. 15-CR-107, 2021 U.S. Dist. LEXIS 144409, at \*13 (E.D. Tex. Aug. 2, 2021).

The issue, therefore, is not simply whether Baker has diabetes, but whether the BOP can adequately monitor, manage, and control Baker’s diabetes. *See, e.g., United States v. Joseph*, No. 10-664, 2021 U.S. Dist. LEXIS 216277, at \*6–7 (E.D. Pa. Nov. 9, 2021) (“Where, as here, there is no indication that the defendant’s diabetes cannot be properly controlled via medication or other appropriate medical care, compassionate release is not warranted.”); *United States v. Jeffers*, 466 F. Supp. 3d 999, 1007 (N.D. Iowa 2020) (finding that the defendant had not demonstrated extraordinary and compelling circumstances when his diabetes and hypertension were controlled, monitored, and managed by the BOP); *United States v. Hoffman*, No. 01-169, 2021 WL 2810068, at \*8 (E.D. Pa.

July 6, 2021) (finding no extraordinary and compelling reasons where defendant's Type 2 diabetes "appear[s] well managed while he is incarcerated" and defendant "takes Metformin to treat his diabetes").

Baker has shown that, at least for his first five weeks of incarceration, his diabetes is not under control. Despite receiving daily insulin, he has been experiencing high blood-sugar levels. He says his feet are swollen and going numb which are signs of neuropathy.

The prison, though, is not ignoring Baker's condition. Baker has provided his medical records. They reveal that Baker has been seen by the doctor several times during his short stay. He is receiving daily insulin and has been put on a regimen for additional insulin if his blood sugar levels rise above a certain level.

The Milan medical staff needs to be given adequate time and opportunity to treat Baker's diabetes before his condition can be deemed extraordinary and compelling. Baker is receiving his medications and insulin. He now has diabetic strips. He has been advised about nutrition and diet. He first requested compassionate release from the warden after only one week in prison, suggesting his diabetes may not have been any better controlled prior to his incarceration.

To that point, Baker also needs to work with the medical personnel and be more compliant with the advice and treatment provided. The government points out that Baker frequently fails to show for his twice-daily insulin injections. (ECF No. 41, PageID.385–86 (citing ECF No. 38, PageID.358–59).) And his commissary purchases include foods rich in sodium and sugar (e.g., soups, chips, honey buns). (ECF No. 41-4.) For his part, Baker explains that his insulin regimen has changed since being incarcerated. He now receives two daily insulin shots as opposed to one. (ECF No. 42, PageID.493.) So he is adjusting to receiving this extra shot. And, says Baker, he “uses commissary food to help manage his highly variable blood sugar. If he starts to crash, and get dizzy, he can use a high sugar food to stabilize himself.” (ECF No. 42, PageID.495.) But Baker should address with medical personnel the healthiest commissary purchases, and overall diet, for managing his diabetes. Whether his glucose levels can be better regulated after strict compliance with his medications and a more appropriate diabetic diet remains to be seen.<sup>1</sup>

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<sup>1</sup> As for Baker’s hypertension, his motion simply states that his “blood pressure is a concern.” (ECF No. 38, PageID.310.) While he did not have one of his three blood-pressure medications for five days, there is nothing in Baker’s medical records that suggests his hypertension is not being adequately managed.

In sum, the records show that the BOP is making efforts to treat Baker's diabetes. Whether the BOP can adequately manage Baker's diabetes requires more time and more compliance by Baker. Baker says he is at high risk of ketoacidosis, which can be followed by diabetic coma and even death if his blood-sugar levels remain as high as they have been. (ECF No. 38, PageID.311.) Thus, if Baker is compliant with the medication regime and nutrition advice provided by the BOP, yet his blood-sugar levels remain dangerously high, the Court would then like information from Baker's doctors (and Baker's medical records) about his glucose levels during the past two years. This would allow the Court to evaluate if Baker's diabetes is better managed outside of prison. At this time, however, the Court does not find extraordinary and compelling circumstances to warrant the immediate termination of Baker's incarceration.

### **III.**

Because Baker has not demonstrated extraordinary and compelling reasons to reduce his sentence to time served, the Court need not address the 3553(a) factors.

Baker's motion for compassionate release is DENIED WITHOUT PREJUDICE.

SO ORDERED.

Dated: March 21, 2022

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE