

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

UNITED STATES OF AMERICA     )  
  )  
          v.                             )     1:04-cr-00015-JAW-2  
  )  
PATRICK JAMES MONAHAN        )

**ORDER DENYING MOTION FOR COMPASSIONATE RELEASE**

On February 25, 2011, Patrick James Monahan moved *pro se* for compassionate release because his father died on January 10, 2011, and his mother is ill without anyone to care for her. *Pro Se Mot. for Early Release* (Docket # 248). Mr. Monahan says that his release date is August 31, 2011 and his mother needs help due to her declining health, including liver cancer, and symptoms from a severe head injury she sustained in 1997. *Id.*

The Government objects. *Gov't's Resp. to Def.'s Mot. for Early Release* (Docket # 250). The Government points out that the Court does not have the authority to release Mr. Monahan. The Government argues that the sole relevant statutory provision is 18 U.S.C. § 3582(c), which allows the Court to authorize an early release only when the Bureau of Prisons makes the motion, and the Bureau of Prisons has not done so. *Id.* at 1-2. Second, the Government observes that the Sentencing Guidelines authorize a defendant's release only if "the defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g)." *Id.* at 2 (quoting U.S.S.G. § 1B1.13). Noting that while he was in a Residential Re-entry Center, Mr. Monahan attempted to mail child pornography to another BOP inmate, the Government urges the Court not to grant the motion

because in its view Mr. Monahan represents a danger to the safety of other persons and the community. *Id.* at 3.

The Government is correct that the Court does not have the authority to order an early release for Mr. Monahan. “Once a district court imposes a term of imprisonment, it may modify that term only to the extent authorized by 18 U.S.C. § 3582(c).” *United States v. Griffin*, 524 F.3d 71, 83 (1st Cir. 2008); *United States v. Ramirez*, CR-05-71-B-W, 2010 U.S. Dist. LEXIS 297, at \*3 (D. Me. Jan. 4, 2010).

The exceptions are when

1) The Director of the Bureau of Prisons moves for a reduction in the term of imprisonment a) due to extraordinary and compelling reasons or b) because the defendant is at least 70 years old, has served at least 30 years in prison and is no longer a danger to the safety of the community, 2) Fed[eral] R[ule of] Crim[inial] Pro[cedure] 35 permits modification of the sentence (due to clear error or substantial assistance) and 3) the defendant has been sentenced to a term of imprisonment based on a range that has subsequently been lowered by the Sentencing Commission.

*Morales v. United States*, 353 F. Supp. 2d 204, 205 (D. Mass 2005). Mr. Monahan does not fit within any of these exceptions. The Court does not reach the question of whether if it had the authority to release Mr. Monahan, it would do so; it clearly does not have the authority to grant the relief he is requesting.

The Court DENIES Patrick James Monahan’s *Pro Se* Motion for Early Release (Docket # 248).

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 5th day of April, 2011

**Defendant (2)**

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