

Proposed Amendment: §1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons)

Synopsis of Proposed Amendment: *This proposed amendment further refines §1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons) and the Commission's implementation of 28 U.S.C. § 994(t). The proposed amendment states that, providing the defendant meets the requirements of subdivision (2) (i.e., the defendant is not a danger to another person or to the community) extraordinary and compelling reasons exist under any of the following circumstances: (A) the defendant is suffering from a terminal illness; (B) the defendant is suffering from a permanent physical or medical condition, or deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and for which conventional treatment promises no substantial improvement; (C) there is a death or incapacitation of the defendant's only family member capable of caring for the defendant's minor child or minor children; or (D) as determined by the Director of the Bureau of Prisons, an extraordinary and compelling reason other than, or in combination with, the reasons previously described.*

Proposed Amendment:

§1B1.13. Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons (Policy Statement)

Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable, the court determines that—

- (1) (A) extraordinary and compelling reasons warrant the reduction; or
(B) the defendant (i) is at least 70 years old; and (ii) has served at least 30 years in prison pursuant to a sentence imposed under 18 U.S.C. § 3559(c) for the offense or offenses for which the defendant is imprisoned;
- (2) 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); and
- (3) the reduction is consistent with this policy statement.

Commentary

Application Notes:

1. Application of Subsection (1)(A).—

(A) Extraordinary and Compelling Reasons—A determination made by the Director of the Bureau of Prisons that a particular case warrants a reduction for extraordinary and compelling reasons shall be considered as such for purposes of subdivision (1)(A). Provided the defendant meets the requirements of subdivision (2), extraordinary and compelling reasons exist under any of the following circumstances:

- (i) The defendant is suffering from a terminal illness.
- (ii) The defendant is suffering from a permanent physical or medical condition, or is experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and for which conventional treatment promises no substantial improvement.
- (iii) The death or incapacitation of the defendant's only family member capable of caring for the defendant's minor child or minor children.
- (iv) As determined by the Director of the Bureau of Prisons, there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons described in subdivisions (i), (ii), and (iii).

(B) Rehabilitation of the Defendant—Pursuant to 28 U.S.C. § 994(t), rehabilitation of the defendant is not, by itself, an extraordinary and compelling reason for purposes of subdivision (1)(A).

2. Application of Subdivision (3)—Any reduction made pursuant to a motion by the Director of the Bureau of Prisons for the reasons set forth in subdivisions (1) and (2) is consistent with this policy statement.

Background This policy statement is an initial step toward implementing implements 28 U.S.C. § 994(t). The Commission intends to develop further criteria to be applied and a list of specific examples of extraordinary and compelling reasons for sentence reduction pursuant to such statute.