

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:17-cr-0023
	)	
BETEL AUGUSTO ROSARIO PAULINO,	)	
	)	
Defendant.	)	
	)	

ORDER

BEFORE THE COURT is the *pro se* motion of Betel Augusto Rosario Paulino (“Rosario Paulino”) for sentence reduction or compassionate release, filed October 22, 2020. (ECF No. 364.) The United States (the “Government”) filed an opposition to the motion on November 3, 2020. (ECF No. 365.) On January 29, 2021, the Court appointed Attorney Lorenzo J. Palomares to represent Rosario Paulino with respect to his motion for compassionate release. (ECF No. 367.) On July 21, 2021, defense counsel, on behalf of Rosario Paulino, filed a reply to the Government’s opposition. (ECF No. 376.) For the reasons stated below, the Court will deny Rosario Paulino’s motion.

On May 18, 2017, a federal grand jury in the U.S. Virgin Islands returned a three-count indictment charging Rosario Paulino with Hobbs Act Robbery and various federal weapons offenses. On July 27, 2017, the Court accepted Rosario Paulino’s guilty plea to Counts Two and Three of the Indictment. The Court sentenced Rosario Paulino to a term of imprisonment of ninety (90) months to be followed by five years of supervised release. His current projected release date is December 26, 2029.

Rosario Paulino filed a *pro se* motion for compassionate release on October 22, 2020, arguing that the COVID-19 pandemic “poses a risk to all inmates regardless [of] the[ir] medical condition” and the prison “creates an unsafe environment and places all inmates in [jeopardy].” (ECF No. 364 at 1.) In its opposition, the Government argued that Rosario Paulino’s motion 1) “relies only on a generalized fear of contracting COVID-19; 2) the motion provides no information indicating Rosario Paulino is at particular risk for contracting the

virus; and 3) Rosario Paulino has not exhausted his administrative remedies. (ECF No. 365 at 2-4.)

On January 29, 2021, the Court appointed Lorenzo J. Palomares to represent Rosario Paulino in his motion for compassionate release. On July 21, 2021, Counsel for Rosario Paulino filed a supplemental brief, affirming that his client did not administratively exhaust prior to filing the motion for compassionate release. (ECF No. 377.) Counsel “conferred with [Rosario Paulino] and the [G]overnment’s Assistant United States Attorney assigned to the case” and “has concluded after studying the record and consulting with petitioner that there was no merit to the motion for compassionate relief because defendant did not exhaust all available administrative and statutory remedies and mandates.” *Id.* at 4-5. Counsel thus represents that the motion is not ripe and should thus be dismissed without prejudice.

The Third Circuit has explained that, prior to a District Court considering a defendant’s motion for compassionate release pursuant to [18 U.S.C. § 3582 (“Section 3582”)], either (1) the Bureau of Prisons (“BOP”) must have had 30 days to consider the defendant’s request that the BOP move for compassionate release on his behalf, or (2) the defendant must administratively exhaust an adverse decision by the BOP in response to that defendant’s request within that time period. *See United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020). Failure to comply with Section 3582(c)(1)(A)’s exhaustion requirement “presents a glaring roadblock foreclosing compassionate release.” *See id.*

Rosario Paulino has not requested the BOP to move for sentence reduction on his behalf and the Government confirms that he has not made such a request. Accordingly, the Court finds that Rosario Paulino has not satisfied Section 3582(c)(1)(A)’s exhaustion requirement. As such the Court cannot consider the merits of Rosario Paulino’s motion.

These premises considered, it is hereby

ORDERED that Rosario Paulino’s Motion for Compassionate Release, ECF No. 364, is **DENIED** without prejudice.

Dated: November 2, 2021

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge