

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JESSE MENDIOLA BLAS,
Defendant.

CRIMINAL CASE NO. 19-00036

**ORDER REAFFIRMING DENIAL OF
MOTION FOR TEMPORARY RELEASE**

On May 27, 2020, the Court held a status conference to address Defendant’s allegations that the conditions of his pre-sentencing confinement (a) do not give him sufficient access to counsel to prepare for sentencing, and (b) do not give him sufficient access to necessary medical services. Defendant previously raised these issues in a motion for temporary release, which the Court denied. *See* ECF 79. At the May 27 hearing, although Defendant did not explicitly request reconsideration of his motion for temporary release, the Court construes his presentation of two prospective third-party custodians as an implicit request for reconsideration. Upon reconsidering Defendant’s motion for temporary release in light of the issues addressed at the May 27 hearing, the Court hereby reaffirms its previous order denying the motion.

First, as the Court has previously noted, the issues of Defendant’s access to counsel and Defendant’s access to medical services are essentially issues relating to the conditions of Defendant’s confinement, and the statute under which Defendant seeks temporary release, 18 U.S.C. § 3143(a), does not authorize release on that basis. Defendant essentially asks the Court to weigh the hardships he faces in confinement against the likelihood that he will pose a flight risk or a danger to the community if released. If Defendant were merely required to prove the § 3143(a) requirements by a preponderance of the evidence, the outcome if his motion might

1 well be different. But the standard established by § 3143(a) is not affected by the conditions a
2 defendant faces in confinement; it requires clear and convincing evidence, and that standard has
3 not been met for reasons explained in the Court’s prior order.

4 Thus, to the extent Defendant believes the conditions of his confinement fall below the
5 minimum standards required by the Constitution or other applicable law, Defendant may seek
6 redress through an appropriate civil action, and the Court takes no view of the potential merits of
7 such an action. But seeking temporary release from detention on this basis is simply not
8 authorized by statute.

9 Second, even assuming *arguendo* that the egregiousness of a Defendant’s conditions of
10 confinement could serve as the basis for temporary release under some circumstances, the Court
11 is not convinced that the conditions presented at the May 27 hearing would warrant such relief.
12 With respect to Defendant’s access to counsel, the Court notes that the Department of
13 Corrections remains willing to accommodate visits from defense counsel under conditions that
14 appear reasonably safe and confidential.¹ With respect to Defendant’s access to necessary
15 medical services, the Court is sympathetic to Defendant’s belief that he would have access to
16 better health care on release than he has access to while detained. While this may well be true, it
17 is equally true for every person detained. Defendant has not shown that his access to necessary
18 medical services falls so far below the minimum standard of care as to warrant an exception to
19 the Congressionally mandated policy that a Defendant remain detained pending sentencing.

20 Accordingly, the Court reaffirms its prior ruling denying Defendant’s motion for
21 temporary release.

22 **SO ORDERED.**



23 /s/ Frances M. Tydingco-Gatewood
24 Chief Judge
25 Dated: May 28, 2020

26 ¹ The Court does not mean to suggest that there is no potential for improvement in the
27 mechanisms and facilities for defense counsel to meet with their clients. However, the question
28 before the Court is not whether improvements would be helpful. The only question before the
Court is whether the facilities provided by the Department of Corrections are so deficient as to
constitute a de facto denial of access to counsel, and the Court is not persuaded that they do.