

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.)
) Crim. No. 09-10166-MLW
)
SALVATORE DIMASI,)
 Defendant.)

MOTION TO REDUCE TERM OF IMPRISONMENT TO TIME SERVED

The United States of America, by the Director of the Federal Bureau of Prisons, and through undersigned counsel, respectfully moves the Court, pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), to modify defendant Salvatore DiMasi's term of imprisonment to time served. In support of this motion, the United States and the Director of the Federal Bureau of Prisons state as follows:

On June 15, 2011, following a jury trial, DiMasi was found guilty of honest services mail fraud, in violation of 18 U.S.C. §§ 1341 and 1346, and conspiracy, in violation of 18 U.S.C. § 371. On September 9, 2011, the Court sentenced DiMasi to 96 months' imprisonment followed by 24 months of supervised release. DiMasi currently has a projected release date of November 17, 2018 (i.e. approximately two years from now) taking into account time off for good conduct.

DiMasi, who is now 71 years old, has cancer of the tongue and prostate, atrial fibrillation, hyperlipidemia, esophageal

stenosis, esophageal reflux, acid reflux, and musculoskeletal pain. He developed tongue cancer while in prison and received radiation and chemotherapy that constricted his esophagus, necessitating his use of a feeding tube for one year. He continues to suffer from choking episodes and requires regular esophageal dilations, among other treatments.

Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), the Court, upon motion of the Director of the Bureau of Prisons, may modify a term of imprisonment if it finds that "extraordinary and compelling reasons" exist to warrant a reduction. In this case, DiMasi's age, length of time served, and medical condition constitute "extraordinary and compelling reasons" warranting the requested reduction: he is a senior who has served 56 months (58%) of his 96-month term of imprisonment and is experiencing deteriorating physical health that substantially diminishes his ability to function in a correctional facility.

If this motion is granted, DiMasi will reside with his wife and his son in Melrose, Massachusetts. The U.S. Probation Office for the District of Massachusetts has approved the supervision of DiMasi.

WHEREFORE, the United States and the Director of the Federal Bureau of Prisons respectfully request that the Court reduce DiMasi's term of imprisonment to the time the defendant

has now served and permit the Bureau of Prisons to release him to begin serving his 24-month term of supervised release.

A proposed form of order is attached.

Respectfully submitted,

CARMEN ORTIZ
United States Attorney

By: /s/ William D,. Weinreb
WILLIAM D. WEINREB
First Assistant U.S. Attorney