

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 12-3013 JB/CG

ALFONSO THOMPSON,

Defendant.

**MEMORANDUM OPINION AND ORDER<sup>1</sup>**

**THIS MATTER** comes before the Court on the Defendant’s Motion for Compassionate Release, filed January 6, 2021 (Doc. 140)(“Motion”). The Court held a hearing on January 31, 2022. See Clerk’s Minutes, filed January 31, 2022 (Doc. 151). The primary issues are: (i) whether Defendant Alfonzo Thompson has exhausted his administrative remedies, where Thompson filed an Inmate Request for compassionate release and the warden denied his request or did not reply within thirty days; (ii) whether Thompson’s pulmonary sarcoidosis, sleep apnea, and seizure disorder in addition to the heightened risk of severe COVID-19 infection these conditions present constitute extraordinary and compelling reasons warranting his release; (iii) whether a reduction in Thompson’s sentence is consistent with applicable policy statements from the United States Sentencing Commission (“Sentencing Commission”); and (iv) whether a sentence reduction aligns with the applicable 18 U.S.C. § 3553(a) factors. The Court concludes that: (i) Thompson has

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<sup>1</sup>In its Sealed Memorandum Opinion and Order, filed March 18, 2024 (Doc. 156)(“Sealed MOO”), the Court requested that the parties propose redactions, if any are necessary to protect confidential information. See Sealed MOO at 1 n.1. The Court gave the parties fourteen calendar days to provide notice of any proposed redactions. See Sealed MOO at 1 n.1. The parties have not contacted the Court or made any filings within CM/ECF to indicate that they have any proposed redactions. Consequently, the Court is now re-filing the Sealed MOO in an unsealed form.

exhausted his administrative remedies, because the warden has not replied to Thompson’s request for compassionate release, despite that more than thirty days have elapsed since Thompson made his request; (ii) Thompson’s case does not present extraordinary and compelling reasons warranting his compassionate release under 18 U.S.C. § 3582(c)(1)(A) and the reduction of his fifteen-year sentence, because Thompson already has contracted COVID-19, at which time Thompson had a mild case of the illness, and Thompson refused the COVID-19 vaccination; (iii) a reduction in Thompson’s sentence is not consistent with applicable United States Sentencing Guideline Manual (U.S. Sent’g Comm’n 2023)(“U.S.S.G.”) policy statements; and (iv) the 18 U.S.C. § 3553(a) factors do not support Thompson’s release, because a time-served sentence is not sufficient to reflect the seriousness of his offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from Thompson, nor to provide Thompson with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. Accordingly, the Court denies the Motion.

### **FACTUAL BACKGROUND**

The Court takes its facts from: (i) the Motion; (ii) the Response to Motion for Motion [sic] to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A), filed January 27, 2021 (Doc. 142)(“Response”); (iii) the Presentence Investigative Report, filed February 16, 2022 (Doc. 153-1)(“PSR”); (iv) the Notice of Factual and Legal Developments, filed April 12, 2021 (Doc. 145)(“First Notice”); (v) the Second Notice of Factual and Legal Developments, filed May 26, 2021 (Doc. 146)(“Second Notice”); and (vi) the Notice of Information Regarding Booster Shots, filed February 11, 2022 (Doc. 152)(“Third Notice”). The Court first describes Thompson’s

previous criminal history. Second, the Court discusses Thompson's offense of conviction. Last, the Court outlines Thompson's time in prison, including his medical problems and matters related to the COVID-19 pandemic.

**1. Thompson's Criminal History.**

1. Thompson was arrested three times as a juvenile. See PSR ¶¶ 62-64, at 31.

2. Thompson has nine prior criminal convictions, see PSR ¶¶ 47-55, at 21-28, five of which involve violence, PSR ¶¶ 47, 49-51, 54, at 20-24, 26.

3. On March 30, 1998, Thompson was convicted of assault against a household member after he told his ex-girlfriend that he would "kill" her and "shoot" her, and then broke the front window of her home. PSR ¶ 47, at 21.

4. On February 5, 2002, Thompson was convicted of battery upon a peace officer after he struck an Albuquerque Police Department ("APD") officer, knocking him backwards, slammed a car door on the officer's leg, and later kicked and struck the officer. PSR ¶ 49, at 22.

5. Also on February 5, 2002, Thompson was convicted of attempt to commit aggravated battery against a household member after Thompson committed domestic violence against an ex-girlfriend by restraining her and using force against her with a seat belt, a knife, and a screwdriver. See PSR ¶ 50, at 24.

6. On November 21, 2003, Thompson was convicted of attempt to commit first-degree murder and sentenced to nine years' custody after pleading guilty to shooting a man named Tampa Mitchell in Albuquerque, New Mexico. See PSR ¶ 51, at 25; Response at 12-13.

7. Also on November 21, 2003, Thompson was convicted of an additional attempted first-degree murder charge -- Thompson shot a woman named Mandy Lavato in the chest -- and

Thompson was sentenced to an additional nine years' custody to serve concurrently with the sentence he received for Mitchell's attempted murder. See PSR ¶ 54, at 27; Response at 13-14.

8. In addition to his criminal convictions, Thompson has an extensive arrest record, including arrests for robbery, assault, trafficking a controlled substance, and additional domestic-violence related charges. See PSR ¶¶ 62-75, at 31-36.

**2. The Underlying Offense.**

9. On April 28, 2012, at approximately 2:48 a.m., APD dispatch received calls from several residents of the Warren Apartments in Albuquerque, "in reference to a disturbance and possible fight between females." PSR ¶ 8, at 6.

10. Later that morning, at approximately 3:07 a.m., APD dispatch received calls from several residents of the apartments who represented that they heard multiple gunshots, the sound of glass breaking, and screaming. See PSR ¶ 9, at 6.

11. APD officers arrived at the scene of a shooting, which was determined to be at Naomi Trujillo's apartment. See PSR ¶ 9, at 6.

12. Officers located a female, later identified as Naomi Trujillo, lying in the open doorway to her apartment, suffering from an apparent gunshot wound. See PSR ¶ 10, at 7.

13. Trujillo was transported to the University of New Mexico Hospital ("UNMH") where she later died. See PSR ¶ 10, at 7.

14. Upon clearing the residence, APD officers located a second female, later identified as May Valerio, lying in a bedroom closet, deceased, and suffering from at least one gunshot wound. See PSR ¶ 11, at 7.

15. It was later discovered that a male, Rodney Davis, drove himself to UNMH with a gunshot wound to his torso. See PSR ¶ 61, at 30.

16. Davis told APD officers that a fight had taken place between Trujillo and Valerio, and two other females, later identified as Shalaka Booker and Sabrina Garley. See PSR ¶ 61, at 30.

17. Davis described that he had been staying at Trujillo's apartment after the altercation between the women, when a black male with a grey hoodie broke the glass window on the apartment's front door and "began shooting into the apartment." PSR ¶ 61, at 30.

18. APD officers identified Booker and her boyfriend, Thompson, as suspects in Davis' shooting, and in Trujillo and Valerio's murders. See PSR ¶ 61, at 30.

19. APD officers obtained an arrest warrant for Thompson for two counts of murder, in addition to search warrants for Thompson's place of business, DBD Jeweler, Thompson's residence, and Thompson's vehicle. See PSR ¶ 12, at 7.

20. On July 12, 2012, APD detectives set up surveillance at DBD Jeweler in an attempt to take Thompson into custody. See PSR ¶ 13, at 7.

21. After observing Thompson leaving the business, APD detectives conducted a traffic stop of Thompson and took Thompson into custody. See PSR ¶ 13, at 7.

22. APD detectives discovered a loaded Smith & Wesson 9 mm semiautomatic handgun in addition to two cellophane-wrapped bundles of cash in the vehicle. See PSR ¶¶ 14-15, 22, 29, at 7, 16-17.

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