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April 9, 2020

BY ECF AND EMAIL

Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: United States v. Rabadi
13 Cr. 353 (KMK)

Dear Judge Karas:

We write to briefly supplement our reply, filed this morning, based on factual information we just received from correctional staff at the MDC that directly contradicts information provided by the BOP to the government, and relied on by the government in opposing Mr. Rabadi's compassionate release, with respect to the measures being taken by the BOP to control the spread of COVID-19 within the facility. Specifically, we learned that the Vice-President of the Union that represents correctional staff at the MDC sent the below email to the Warden of the MDC this morning:

Good morning,
The Preamble states that we recognize that the employees are the most valuable resource of the agency.
It has come to the Union's attention that management has shown that inmates are the most valuable asset to the Bureau. Can we please address the following concerns:

Why are staff not quarantined who have been in direct contact with inmates who have tested positive or were symptomatic? Meanwhile, you are quarantining an entire unit, and not saying a word to those staff members left behind.
When will we show staff that we care about them? You only gave us 2 surgical masks to enter the building for protection, one more mask than you gave the inmates to reuse weekly.

Why do we have 2 inmates who tested positive on regular housing units? J-73 and G-43. These inmates were released to general population even before 7days of quarantine. Why aren't those

housing units on quarantine with appropriate PPE for staff? if a staff member gets sick or even dies from the COVID19 virus in one of these units it's now noted that you were well aware. We are asking for N-95's on those units and for all staff entering these housing units.

Once staff test positive why haven't we informed all staff who have been in direct contact with those individuals? Why are they not quarantined? Why are we not appropriately informing the staff?

Rhonda Barnwell,
A.F.G.E Local 2005 - Deputy Chief
U.S. Department of Justice
Federal Bureau of Prisons
Metropolitan Detention Center
80 29th Street Brooklyn, NY 11232
[redacted]

The BOP has repeatedly asserted in litigation in the Southern and Eastern Districts of New York that it is containing the spread of coronavirus by keeping positive and symptomatic inmates on isolation (*Gov't Opp.* at 17-18; April 9 Letter to Chief Judge Mauskopf, pursuant to Administrative Order No. 2020-14, from Warden Edge and Warden Licon-Vitale, attached as Ex. A), but the Union, whose members are required to work inside the facility every day, states that two inmates who have tested positive were returned to regular housing units after less than 7 days, that those units are not now quarantined, and staff on those units have not been given appropriate personal protective gear. The Union also raises the clear problem of exposed staff not being quarantined, but rather, continuing to work on the units, and of staff members not being informed when other staff members whom they were in contact with have tested positive.

These assertions by the Union call the credibility of the BOP's representations about the practices at MDC Brooklyn into serious question and further speak to the risk to all the inmates from such practices that are contrary to the CDC's advice, and in particular the risk to vulnerable inmates such as Mr. Rabadi.

Respectfully Submitted,

/s/
Sylvie J. Levine
Deirdre D. von Dornum
Federal Defenders of New York

CC: AUSA Daniel Richenthal
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