

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

CAUSE NO. 1:02-CR-1144-VEC

BERNARD J. EBBERS

**MOTION TO EXPEDITE DETERMINATION OF
MOTION FOR REDUCTION IN SENTENCE**

Bernard J. Ebbers, by and through undersigned counsel, hereby files his Motion to Expedite Determination of Motion for Reduction in Sentence. In support of this Motion, Ebbers shows the following:

1. On September 5, 2019, Ebbers filed his Motion for Reduction in Sentence (Docket # 350), seeking compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A).
2. On September 9, 2019, this Court entered an Order (Docket # 351) setting a schedule for the Government to submit its Response and for Ebbers to submit his Reply.
3. The Government submitted its Response (Docket # 354) on October 4, 2019.
4. Ebbers submitted his Reply (Docket # 355) on October 11, 2019.
5. On October 23, 2019, the Government submitted additional information regarding recent changes to Ebbers' physical and mental health, which have resulted in his being placed in a more restrictive unit with 24-hour nursing care. *See* Docket # 358.
6. Ebbers submitted a Reply to the new information provided by the Government on October 25, 2019. *See* Docket # 359. The matter is fully briefed.
7. On October 28, 2019, Ebbers' daughter, Joy Ebbers Bourne, visited her father. *See* Exhibit "1," Declaration of Joy Ebbers Bourne dated 10/29/2019.

8. Joy Ebbers Bourne continues to witness a rapid deterioration in her father's physical and mental health. Her frequent phone calls with her father have been greatly reduced. While she used to visit with him for many hours, her visit yesterday was for less than one hour. Her father was incoherent and in a weak physical condition.

9. Based upon her observations, Joy Ebbers Bourne fears her father's life is nearing its end.

10. It should be noted that Joy Ebbers Bourne submitted a Declaration at the time the original Motion was filed. *See* Docket # 350.6. While the Government discounted much of what she reported, the more recent medical documentation from the BOP confirmed what Joy Ebbers Bourne described in her Declaration. While Joy Ebbers Bourne is not a doctor, she knows her father, and her prior observations regarding her father's condition have proven to be accurate.

11. Based on the foregoing, Ebbers requests an expedited determination of his Motion for Reduction in Sentence. The merits of the Motion have been fully briefed. In light of Ebbers' continued physical and mental decline, it is feared that he may die before the Motion is decided if it is not given expedited consideration. Mr. Ebbers and his family wish for him to live out his days—however many that may be—surrounded by his family and not in a prison cell or prison hospital bed.

WHEREFORE, PREMISES CONSIDERED, Bernard J. Ebbers respectfully requests that this Court grant this Motion and expedite its determination of his pending Motion for Reduction in Sentence. Ebbers prays for any further or additional relief to which he may be entitled in the premises.

RESPECTFULLY SUBMITTED this the 29th day of October, 2019.

BERNARD J. EBBERS

BY: /s/ Graham P. Carner
GRAHAM P. CARNER

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CERTIFICATE OF SERVICE

I, Graham P. Carner, do hereby certify that I served a true and correct copy of the above and foregoing document by electronically filing same in accordance with this Court's electronic filing procedures, resulting in notice to ALL COUNSEL OF RECORD.

So certified this the 29th day of October, 2019.

/s/ Graham P. Carner
GRAHAM P. CARNER

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BERNARD J. EBBERS

DECLARATION OF JOY EBBERS BOURNE

Pursuant to 28 U.S.C. § 1746, I, JOY EBBERS BOURNE, state as follows:

1. My name is Joy Ebbers Bourne. I am one of Bernard J. Ebbers' daughters.
2. I am submitting this Declaration to speak to the dire physical and mental state that my dad is in. His condition continues to deteriorate at a rapid pace.
3. Since my dad has been in prison, I have visited him at least once per month. Over the past few months I have visited him multiple times monthly. I also have a history of regular phone communication with my dad, as set forth in my previous Declaration.
4. My phone calls from Dad are down to two to three times weekly. He is unable to place a call without assistance due to his physical and mental state. The frequency of phone calls from dad has reduced greatly since I provided my last Declaration.
5. As I mentioned in my prior Declaration, Dad has shown signs of confusion for months. Based upon my observations, he is now experiencing full-blown dementia. In my recent phone calls and visits, he is unable to carry on a conversation.
6. Since being moved to Lubbock Unit at FMC Ft. Worth, Dad has continued to deteriorate rapidly. On our October 12 visit, Dad was preoccupied with the answers to several questions. He had us quiz him every 10-15 minutes during our visit. He stated that he is asked

these questions each day to evaluate his mental health. (Who is the President? How old are you? What unit do you live in? What month is it?) He was only able to consistently answer one of those questions when we asked him during our October 12 visit.

7. My mother and I visited my dad again yesterday, October 28. I was astonished by his continued decline. He is physically a mere skeleton. He was escorted to the visiting room by a “handler” who walked alongside Dad pushing a wheelchair in case Dad needed it during his walk over. Although he recognized us, he was completely incoherent verbally. He was unable to complete a thought or follow in conversation with my Mom and me.

8. In July, we shortened our visits from approximately 6 hours, to only 3 to 4 hours as he tired more quickly. Yesterday, after only 45 minutes, he stated he was “really cold and ready to get in bed.” We ended our visit.

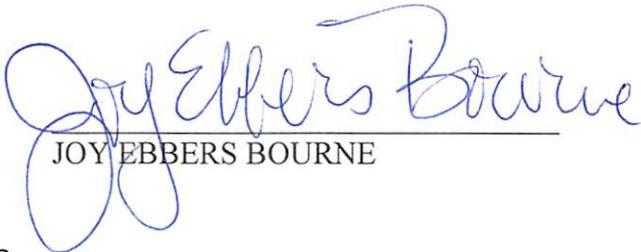
9. It is evident to me that my dad’s days here on earth are short. While I acknowledge that I am not a doctor, based on what I have observed I fear that he may have only weeks to live.

10. My family and I beg the Court to allow us to spend his last days with him. If he is released, our family will be with Dad constantly.

11. I pray that the Court will have compassion on my father, and on his family, and release him to us.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 29, 2019.


JOY EBBERS BOURNE