

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 20-cr-00040 (BAH/RMM)
)	
JESSICA JOHANNA OSEGUERA)	
GONZALEZ,)	
)	
Defendant.)	
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DEFENDANT JESSICA JOHANNA OSEGUERA GONZALEZ’S EMERGENCY MOTION
FOR RECONSIDERATION OF THE COURT’S DETENTION ORDER
AND INCORPORATED MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Jessica Johanna Oseguera Gonzalez, by and through her undersigned counsel, respectfully submits this emergency motion for reconsideration of the Court’s March 3, 2020 Minute Order and March 5, 2020 Memorandum Opinion and Order granting the Government’s Motion for Pretrial Detention due to the immediate and severe harm posed by COVID-19 and Ms. Gonzalez’s continued incarceration. In support of this motion, Ms. Gonzalez states the following.

Circumstances in the United States have radically changed since Ms. Gonzalez was detained on March 3, 2020. Since that date, COVID-19 has emerged as a global pandemic and national health emergency. COVID-19 poses an immediate and absolute danger to Ms. Gonzalez and to the community. Detention facilities, such as the facility in which Ms. Gonzalez is currently incarcerated, pose an even more substantial danger, given the sheer number of inmates sharing close quarters, without the ability to stay away from one another and stop the spread of the virus. As an individual charged with a non-violent crime, and with absolutely no criminal history, Ms. Gonzalez respectfully asks the Court to reconsider its March 3, 2020 and

March 5, 2020 Orders, and to release her pursuant to the conditions set forth by Magistrate Judge Meriweather on March 2, 2020.

Incarceration poses a *grave public health threat* during this crisis. Indeed, “[b]eing incarcerated is a major threat to an individual’s physical and mental health. Infectious diseases like tuberculosis and influenza spread rapidly in confinement, and there is every reason to expect that COVID-19 will do the same.” See Brendan Saloner and Sachini Bandara, *To Protect Inmates and the Nation from COVID-19, Release Offenders Who Pose No Threat*, USA TODAY (Mar. 17, 2020), <https://www.usatoday.com/story/opinion/policing/2020/03/17/protect-nation-covid-19-release-inmates-who-pose-no-threat/5072004002/>. According to Tyler Winkelman, co-director of the Health, Homelessness, and Criminal Justice Lab at the Hennepin Healthcare Research Institute in Minneapolis, “[a]ll prisons and jails should anticipate that the coronavirus will enter their facility.” See Nicole Wetsman, *Prisons and Jails are Vulnerable to COVID-19 Outbreaks*, THE VERGE (Mar. 7, 2020), <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-soap>. COVID-19 “spreads quickly in closed spaces, like cruise ships, nursing homes — and jails and prisons.” *Id.* It is vitally important to acknowledge that inmates do not live under quarantine. Instead, as stated by Dr. Amanda Klonsky, scholar of education and mass incarceration, and the Chief Program Officer of The Petey Greene Program, a prison education organization:

The American criminal legal system holds almost 2.3 million people in prisons, jails, detention centers and psychiatric hospitals. And they do not live under quarantine: jails experience a daily influx of correctional staff, vendors, health care workers, educators and visitors — all of whom carry viral conditions at the prison back to their homes and communities and return the next day packing the germs from back home.

Dr. Amanda Klonsky, *An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues*, THE NEW YORK TIMES (Mar. 16, 2020), <https://www.nytimes.com/>

2020/03/16/opinion/coronavirus-in-jails.html; *see also* Joseph A. Bick, *Infection Control in Jails and Prisons*, 45 *Clinical Infectious Diseases* 1047, 1047 (Oct. 2007), <https://doi.org/10.1086/521910> (noting that in jails “[t]he probability of transmission of potentially pathogenic organisms is increased by crowding, delays in medical evaluation and treatment, rationed access to soap, water, and clean laundry, [and] insufficient infection-control expertise”).

As of the filing of this emergency motion, a correctional officer in a detention facility in Pennsylvania has tested positive for COVID-19, resulting in a quarantine of staff members and inmates. *Id.* The total number of confirmed COVID-19 cases in Washington, D.C., Maryland, and Virginia has climbed to 203, with deaths occurring in both Maryland and Virginia. *See* Dana Hedgpeth, “Live updates: Maryland man’s death is first known case of community transmission in state,” *THE WASHINGTON POST* (Mar. 19, 2020), <https://www.washingtonpost.com/dc-md-va/2020/03/19/coronavirus-dc-maryland-virginia-updates/>. It is not a question of if, therefore, but when COVID-19 will spread to the detention center where Ms. Gonzalez is currently housed. *See* Rich Schapiro, *Coronavirus Could ‘Wreak Havoc’ on U.S. Jails, Experts Warn*, *NBC NEWS* (Mar. 12, 2020), <https://www.nbcnews.com/news/us-news/coronavirus-could-wreak-havoc-u-s-jails-experts-warn-n1156586> - <https://www.nbcnews.com/news/us-news/coronavirus-could-wreak-havoc-u-s-jails-experts-warn-n1156586> (“We’re in a very perilous stage right now,” said Dr. Homer Venters, the former chief medical officer of the New York City jail system. “It’s just a matter of time before we see cases inside jails and prisons.”); Martin Kaste, *Prisons and Jails Worry About Becoming Coronavirus ‘Incubators’*, *NPR* (Mar. 13, 2020), <https://www.npr.org/2020/03/13/815002735/prisons-and-jails-worry-about-becoming-coronavirus-incubators>.

As demonstrated by Magistrate Judge Meriweather's March 2, 2020 Release Order, there are, we respectfully submit, adequate conditions that will ensure Ms. Gonzalez's appearance before this Court. *See* ECF 17. As stated above, Ms. Gonzalez has been indicted for non-violent offenses, and has no criminal history. Her continued detention poses not only a grave risk to her, but also to the community at large. The more people remain detained in detention facilities, the greater the likelihood of an unchecked outbreak of COVID-19 in those facilities. Such an outbreak will impact inmates, correctional officers, and the communities of which those inmates and officers are a part. Releasing Ms. Gonzalez will safeguard her health, and will also help reduce the threat of COVID-19 spreading like wildfire through our detention centers.

On March 19, 2020, undersigned counsel sought the United States position on the relief requested herein. Brett Reynolds, counsel for the United States, represented that the United States opposes the relief sought herein.

CONCLUSION

"In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Circumstances have drastically changed since the Court's March 3, 2020 and March 5, 2020 Orders directing Ms. Gonzalez to be detained. Ms. Gonzalez's continued pre-trial detention poses a grave health risk not only to her, but also to our community. For the foregoing reasons, and any other reasons appearing to the Court, Ms. Gonzalez respectfully requests the Court reconsider its March 3, 2020 and March 5, 2020 Orders granting the Government's Motion for Pretrial Detention, and to release Ms. Gonzalez subject to the conditions set forth in Magistrate Judge Meriweather's March 2, 2020 Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March 2020, the foregoing was served electronically on the counsel of record through the U.S. District Court for the District of Columbia Electronic Document Filing System (ECF) and the document is available on the ECF system.

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