

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION**

UNITED STATES OF AMERICA) **CASE NOS. 2017 CF3 19988**
) **2017 CF3 11265**
vs)
) **JUDGE ROBERT A. SALERNO**
DAEYON ROSS)

ORDER

Before the court is Defendant's *pro se* motion for sentence reduction pursuant to Superior Court Rule of Criminal Procedure 35(b). Although the *pro se* motion was filed in 2017 CF3 19988, it appeared that Mr. Ross also sought relief from the sentence in 2017 CF3 11265. Therefore, the Court treated Mr. Ross's *pro se* motion as being filed in both cases and consolidated them to be briefed and heard together.

The Public Defender Service for the District of Columbia ("PDS") represented Mr. Ross in both 2017 CF3 19988 and 2017 CF3 11265. On October 27, 2020, the Court appointed Prescott Loveland of PDS to represent Mr. Ross in connection with his motion and set a briefing schedule. No brief was ever submitted. To the extent that Mr. Ross's motion has not been abandoned, it will be denied.

Pursuant to Rule 35(b), "[a] motion to reduce a sentence may be made not later than 120 days after the sentence is imposed or probation is revoked[.]" Super. Ct. Crim. R. 35(b). The purpose of this Rule is to allow the trial court to consider, after further reflection, whether the sentence originally imposed was too harsh. *Williams v. United States*, 470 A.2d 302, 310 (D.C. 1983). Even if the Court were to conclude that the 120-day period in Rule 35(b) is a discretionary claims processing rule rather than a mandatory one, the Court would not exercise its discretion to reduce Mr. Ross' sentences in these matters.

Both of these matters involve violent offenses using a weapon. In 2017 CF3 11265, Mr. Ross pled guilty to Robbery While Armed. In 2017 CF3 19988, Mr. Ross pled guilty to Robbery, and in his factual proffer admitted to using a handgun during the offense. Both guilty pleas were pursuant to Rule

11(c)(1)(C). A guilty plea under Rule 11(c)(1)(C) is one in which the attorney for the government and defendant “agree that a specific sentence or sentencing range is the appropriate disposition of the case.” The sentences in these cases, therefore, are sentences that both parties previously agreed would be appropriate. Although the motion discusses the hardship of being imprisoned during a pandemic, it does not present any facts that would lead the Court to conclude that the sentences in these cases were too harsh – particularly given that the matters involved violent armed conduct, the sentences were concurrent rather than consecutive, and the sentences were consistent with the Rule 11(c)(1)(C) plea agreements in both matters.

Furthermore, even if the motion were treated as seeking compassionate release pursuant to D.C. Code § 24-403.04, Mr. Ross does not present any facts showing that he would be eligible for relief pursuant to that statute. In particular, Mr. Ross represents that he was 19 years old when he filed the motion, and does not allege any medical conditions making him acutely vulnerable to severe medical complications or death as a result of COVID-19.

For these reasons, to the extent that Mr. Ross’ motion has not been abandoned, it is **DENIED**.

It is **SO ORDERED**.

Date: October 8, 2021



Associate Judge Robert A. Salerno

Copies E-served on:

Special Proceedings
United States Attorney's Office
Through Michael Sherwin, United States Attorney

Prescott Loveland
Via CaseFileXpress
Counsel for Defendant

Copy Emailed to:

Special Proceedings Division
USADC.ECFSpecialProceedings@usdoj.gov
Margaret Chriss, Chief Special Proceedings
T. Anthony Quinn, Deputy Chief, Special Proceedings