

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 19-10080-NMG-11
)	
DOUGLAS HODGE,)	
)	
Defendant.)	<i>Leave to File Granted on 8/5/2020</i> <i>(Dkt. No. 1451)</i>

**DOUGLAS HODGE'S REPLY MEMORANDUM IN SUPPORT OF HIS MOTION
PURSUANT TO 18 U.S.C. § 3582(c) FOR A MODIFICATION OF HIS SENTENCE**

Mr. Hodge reported to prison on June 23, 2020 for reasons deeply rooted in his concern for his family, as detailed in the sealed portions of his opening memorandum. He then spent 29 consecutive days in solitary quarantine, a punishment more punitive than anticipated at the time of his sentencing hearing. The government does not dispute that Mr. Hodge was alone in his cell for well-over 23 hours on each of those 29 days. Instead, the government attacks Mr. Hodge's motivation for reporting to prison, and argues that he cynically subjected himself to this treatment. Mr. Hodge asks this Court to decide whether to credit the government's explanation or Mr. Hodge's explanation.

The government has no answer to Mr. Hodge's request that this Court take into account the harsh conditions he has endured that were unforeseen at the time of his sentencing. The government similarly does not adequately address the recent developments impacting Mr. Hodge's family. Rather, the government essentially argues that Mr. Hodge deserves this harsh sentence and the consequences for his family because he is unrepentant. The government is wrong; Mr. Hodge has taken complete and sole responsibility for his conduct. The government's arguments to the contrary are misconceived.

First, asking for the Court to take into consideration a month-long term in solitary quarantine, where Mr. Hodge sat in his cell for all but 15 minutes each day, and the impact of recent familial developments is unrelated to Mr. Hodge's acceptance of responsibility. The government makes much of the letter to the warden initiating the 18 U.S.C. § 3582 process, but does not examine the reason motivating Mr. Hodge's counsel to file this letter expeditiously or Mr. Hodge to write a heartfelt, handwritten, five page letter to the warden – the familial considerations previously addressed under seal. And as the government well knows, this letter is merely a procedural step that is a necessary precursor to bringing a § 3582 motion a month later.

Second, the government seeks to portray Mr. Hodge as insufficiently remorseful because he filed an 28 U.S.C. § 2255 motion outlining serious concerns with the government's failure to disclose *Brady* material that he believed deprived him of core due process rights. Mr. Hodge recognizes that the Court did not adopt Mr. Hodge's position, but the government's current stance – that the Court should take no action to address the punitive conditions Mr. Hodge endured because he raised serious concerns with the government's conduct – sends a chilling message.

And third, the government continues to misrepresent Mr. Hodge's op-ed in the Wall Street Journal, both in the Opposition as well as *ex parte* during – and unrelated to – the sentencing hearing of a separate defendant. In this op-ed, Mr. Hodge sought to explain how someone who otherwise had lived an exemplary life came to commit this serious crime. As Mr. Hodge wrote, "I was certain that I had not committed any crime. I was wrong," and "[a]s a person who values honesty and integrity, I failed." Mr. Hodge then described how as Mr. Singer's scheme became clearer, "I should have turned the other way. I should have listened to my conscience. Today I realize that what I did was not only wrong but immoral, and it hurt others," specifically expressing his regret for harming "a larger circle of students and families." Mr. Hodge then concluded the op-ed by taking complete responsibility, stating, "I, and I alone, am responsible for this," and ending with, "I look to the future knowing that I have in one lifetime walked two starkly opposing paths: one defined by integrity and compassion, the other marred by deception and unfairness."¹

Mr. Hodge understands that the government sees only the worst in him: it ascribes cynical calculation to his decision to report to prison, even as he is motivated solely by his

¹ Available at, <https://www.wsj.com/articles/i-wish-id-never-met-rick-singer-11581278199>

overriding love for his family; claims that he is insufficiently remorseful, even as he has repeatedly publicly expressed his remorse, including in an emotional and heartfelt statement to this Court, and currently sits in prison; and even questions whether Mr. Hodge is exaggerating the punitive nature of spending 29 straight days alone in a cell. *See* Opposition, Dkt. 1446 at 8 (“to the extent his initial quarantine could even be considered ‘severely punitive.’”). Mr. Hodge is hopeful that this Court takes the accurate measure of his life, his sincerity, and his remorse, and asks that the Court fairly evaluate his punitive stay in solitary quarantine and the familial matters addressed under seal in considering his 18 U.S.C. § 3582 motion.

Dated: August 5, 2020

Respectfully submitted,

By: /s/ Brien T. O'Connor

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2020, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system, and caused it to be served on all registered participants via the notice of electronic filing.

Dated: August 5, 2020

/s/ Brien T. O'Connor
Brien T. O'Connor