

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

v.

JEREMY DANIELS,

Defendant.

Case No. 19-cr-00709-LHK (NC)

**ORDER GRANTING DEFENDANT’S
MOTION FOR TEMPORARY
RELEASE**

Re: ECF 19

Before the Court is a motion to reopen the detention hearing and for pretrial release of defendant Jeremy Daniels. ECF 19. Daniels was indicted for one count of felon in possession of firearm and ammunition in December 2019. ECF 1. After a detention hearing on January 7, 2020, he was ordered detained pending trial. The Court determined that Daniels was a danger to the community. ECF 6.

Daniels moves under 18 U.S.C. § 3142(i) for temporary release from custody. The Court FINDS that compelling reasons exist for Daniels’s temporary release from custody. The Court ORDERS the defendant to be temporarily released subject to the additional conditions detailed at the end of this order, which includes 24-hour home detention and electronic location monitoring as administered by the Pretrial Services Department.

Daniels is detained at Santa Rita County Jail, an Alameda County facility in Dublin, California, under contract with the United States Marshals Service. This “mega jail” is the

1 third largest facility in California and the fifth largest in the nation. *See Babu et al. v.*
 2 *Ahern et al.*, Case No. 18-cv-07677-NC, Dkt. No. 61. It houses inmates in all
 3 classification levels including federal detainees. *Id.* Over 29,000 inmates are booked into
 4 Santa Rita each year. *Id.* As of April 9, 2020, Santa Rita houses 1,979 inmates. *See*
 5 *Covid-19 Updates*, ALAMEDA COUNTY SHERIFF’S OFFICE (Apr. 9, 2020, 1:45 PM),
 6 https://www.alamedacountysheriff.org/admin_covid19.php.

7 This Court issued its Criminal Case Standing Order Regarding Procedure for
 8 Review of Detention Orders in Light of Coronavirus Pandemic on March 16, 2020.¹
 9 Daniels filed his motion for review pursuant to that Order and has met the requirements of
 10 the Order. The Government opposes the motion for release. ECF 21. According to the
 11 Government, the COVID-19 pandemic is not a compelling reason for release because the
 12 Santa Rita Jail is equipped to provide appropriate medical care and Daniels’s well-being
 13 would not necessarily be improved by his release. *See id.* at 10–12. The Government also
 14 argues that Daniels remains a danger to the public and should be kept in custody. The
 15 Court held a hearing on the motion and ordered Pretrial Services to conduct a virtual tour
 16 of Daniels’s fiancé’s apartment to determine whether it is a suitable residence for Daniels.
 17 ECF 23. Pretrial Services investigated and reported this afternoon that the apartment is
 18 indeed a suitable residence. The proposed custodian, Diana Bailey, was present
 19 telephonically for the hearing and the Court finds her to be a suitable custodian.

20 As of the drafting of this order, twelve inmates at Santa Rita Jail have tested
 21 positive for COVID-19. *See Covid-19 Updates*. Twenty-one inmates are currently
 22 categorized as “red,” meaning that they are “displaying symptoms consistent with COVID-
 23 19.” *Id.* Forty-five inmates are categorized as “orange,” meaning that they are
 24 “considered at increased risk for COVID-19 complications (pregnant, older than 65,
 25 chronic medical conditions).” *Id.* Six housing units consisting of ten total pods are
 26 categorized as “yellow,” meaning that have had contact with known or suspected COVID-

27
 28 ¹ The standing order can be found at: <https://www.cand.uscourts.gov/wp-content/uploads/judges/cousins-nc/NCcrimstandingpandemic31620.pdf>

1 19 and therefore are placed under 14-day quarantine. *Id.* Santa Rita has conducted 52
 2 tests for the virus: 34 were negative, 12 were positive, and 6 await results. *Id.* A nurse
 3 assigned to the jail, as well as a second staff member, tested positive for COVID-19. *Id.*;
 4 *see also* Angela Ruggiero, *Alameda County Jail Reports Nurse has Tested Positive for*
 5 *Coronavirus*, MERCURY NEWS (Mar. 27, 2020, 5:09 AM),

6 [https://www.mercurynews.com/2020/03/26/alameda-county-jail-reports-first-coronavirus-](https://www.mercurynews.com/2020/03/26/alameda-county-jail-reports-first-coronavirus-case-a-nurse/)
 7 [case-a-nurse/](https://www.mercurynews.com/2020/03/26/alameda-county-jail-reports-first-coronavirus-case-a-nurse/).

8 Title 18 U.S.C. § 3142(i)(4) “permit[s] the temporary release of the person . . . to
 9 the extent that the judicial officer determines such release to be necessary for preparation
 10 of the person’s defense *or for another compelling reason.*” (emphasis added).

11 Daniels argues that the COVID-19 pandemic constitutes a compelling reason for his
 12 release. *See* ECF 19. He contends that his health conditions, which include obesity,
 13 previous head wounds, and post-traumatic stress disorder, all render him at risk for serious
 14 complications should he contract COVID-19. *Id.* at 2–3, 8.

15 Due to the novel coronavirus pandemic, we are in “extraordinary times.” *In the*
 16 *Matter of the Extradition of Alejandro Toledo Manrique*, Case No. 19-mc-71055-TSH,
 17 2020 WL 1307109 (N.D. Cal. Mar. 19, 2020). This is a global crisis with exponentially
 18 increasing infections and hundreds of thousands of deaths. The President of the United
 19 States has declared a National Emergency. *See* Proclamation No. 9994, 85 Fed. Reg.
 20 15,337 (Mar. 13, 2020).² Community transmission of the virus is widespread in the State
 21 of California, which has one of the largest numbers of confirmed cases in the country. *See*
 22 *Cases in U.S.*, CENTER FOR DISEASE CONTROL AND PREVENTION (Apr. 9, 2020, 1:45 PM),
 23 <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>. California
 24 Governor Gavin Newsom has issued an Executive Order declaring a State of Emergency
 25 and directing all Californians to stay home to minimize public interaction. *See* Executive
 26

27 _____
 28 ² The full text of the proclamation is available at:
<https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

1 Order N-33-20, Exec. Dep’t State of Cal. (Mar. 19, 2020).³ Counties in the San Francisco
2 Bay Area have instituted and extended shelter-in-place orders requiring social distancing;
3 local schools and businesses are closed. *See* Rong-Gong Lin II, *San Francisco Bay Area*
4 *to Extend Coronavirus Shelter-in-Place Order Through At Least May 1*, LOS ANGELES
5 TIMES (Mar. 30, 2020, 4:40 PM), [https://www.latimes.com/california/story/2020-03-](https://www.latimes.com/california/story/2020-03-30/bay-area-extends-coronavirus-shelter-in-place-order-through-at-least-may-1)
6 [30/bay-area-extends-coronavirus-shelter-in-place-order-through-at-least-may-1](https://www.latimes.com/california/story/2020-03-30/bay-area-extends-coronavirus-shelter-in-place-order-through-at-least-may-1).

7 Our Court has since closed three of its four courthouses, vacated criminal and civil
8 trials, suspended grand jury proceedings, restricted in-person use of its facilities, and
9 limited its operations. *See* General Order 72 (N.D. Cal. Mar. 16, 2020); General Order 73
10 (N.D. Cal. Mar. 16, 2020), *amended on Apr. 2, 2020*.⁴ These restrictions aim to follow
11 guidance from the Centers for Disease Control and Prevention (“CDC”) recommending
12 frequent hand-washing, avoiding close contact with other people, cleaning and disinfecting
13 frequently-touched items and surfaces as much as possible, and avoiding groups of more
14 than 10 people. *See How to Protect Yourself & Others*, CENTER FOR DISEASE CONTROL
15 AND PREVENTION, (Apr. 8, 2020), [https://www.cdc.gov/coronavirus/2019-ncov/prevent-](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html)
16 [getting-sick/prevention.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html).

17 As is now clear, the COVID-19 pandemic has reached U.S. jails and prisons. *See*,
18 *e.g.*, Timothy Williams, *et al.*, ‘*Jails are Petri Dishes*’, NEW YORK TIMES (Mar. 31, 2020),
19 <https://www.nytimes.com/2020/03/30/us/coronavirus-prisons-jails.html> (noting—as of
20 March 30, 2020—over one hundred positive tests for coronavirus at Cook County jail in
21 Chicago, almost 80 positive tests in Michigan prisons, nearly 200 cases at Rikers Island
22 jail complex in New York, and almost forty cases in federal prisons including one death at
23 the Bureau of Prison’s Oakdale, Louisiana facility); *see also United States v. Garlock*,
24 Case No. 18-cr-00418-VC, 2020 WL 1439980, at *1 (“The chaos has already begun inside
25 federal prisons—inmates and prison employees are starting to test positive for the virus,

26 _____
27 ³ The full text of the executive order is available at: [https://covid19.ca.gov/img/N-33-](https://covid19.ca.gov/img/N-33-20.pdf)
28 [20.pdf](https://covid19.ca.gov/img/N-33-20.pdf).

⁴ Both General Orders can be found at: [https://www.cand.uscourts.gov/rules/general-](https://www.cand.uscourts.gov/rules/general-orders/)
[orders/](https://www.cand.uscourts.gov/rules/general-orders/).

1 quarantines are being instituted, visits from outsiders have been suspended, and inmate
2 movement is being restricted even more than usual”) (citing Zusha Elinson *et al.*, *Jails*
3 *Release Prisoners, Fearing Coronavirus Outbreak*, THE WALL STREET JOURNAL (Mar. 22,
4 2020, 10:00 AM), [https://www.wsj.com/articles/jails-release-prisoners-fearing-](https://www.wsj.com/articles/jails-release-prisoners-fearing-coronavirus-outbreak-11584885600)
5 [coronavirus-outbreak-11584885600](https://www.wsj.com/articles/jails-release-prisoners-fearing-coronavirus-outbreak-11584885600)). The Court takes notice of the information presented
6 by the United States Bureau of Prisons at www.BOP.gov under its COVID-19 response
7 tab. As of April 9, BOP reported 283 inmates and 125 staff diagnosed with the virus and 8
8 inmate deaths.

9 First, the Court rejects the Government’s contention that Daniels’s custodial
10 situation does not put him at a meaningfully higher risk of contracting COVID-19. *See*
11 ECF 21 at 12. There is no evidentiary, expert witness, or commonsense support for the
12 Government’s assessment that Daniels’s risk of infection at Santa Rita Jail is “likely low
13 and manageable.” ECF 21 at 12:26. To the contrary, jails and prisons present
14 extraordinarily dangerous conditions for the spread of the virus. *See United States v.*
15 *Stephens*, 2020 WL 1295155 (citing Joseph A. Bick, *Infection Control in Jails and*
16 *Prisons*, 45 *Clinical Infections Diseases* 1047 (Oct. 2007)), which found that the
17 “probability of transmission of potentially pathogenic organisms is increased by crowding,
18 delays in medical evaluation and treatment, rationed access to soap, water, and clean
19 laundry, [and] insufficient infection-control expertise”); *see also Xochihua-Jaimes v. Barr*,
20 Case No. 18-cv-71560 (9th Cir. Mar. 24, 2020) (stating that “public health authorities
21 predict” the “rapidly escalating public health crisis” “will especially impact immigration
22 detention centers”). “Social distancing and proper hygiene are the *only* effective means by
23 which we can stop the spread of COVID-19”—and in no place is ensuring these means
24 more “difficult, if not impossible,” than in detention centers. *Thakker v. Doll*, Case No.
25 20-cv-480-JEJ, Dkt. No. 47 at 21 (M.D. Pa. Mar. 31, 2020); *United States v. Gorbman*,
26 Case No. 18-cr-20989, Dkt. No. 397 (S.D. Fla. Mar. 29, 2020).

27 Dr. Brie Williams, Professor of Medicine at UCSF with expertise in health issues
28 affecting prisons, recently opined that “[b]ecause inmates live in close quarters, there is an

1 extraordinarily high risk of accelerated transmission of COVID-19 within jails and
 2 prisons.” See *United States v. McCoy*, Case No. 19-cr-00067-JD, Dkt. No. 94, Ex. 2
 3 (Affidavit of Brie Williams, M.D.) at 3. Dr. Williams states that because “[i]nmates share
 4 small cells, eat together and use the same bathrooms and sinks,” “social distancing in most
 5 facilities [is] virtually impossible . . . compounded by inadequate sanitation, such as a lack
 6 of hand sanitizer or sufficient opportunities to wash hands.” *Id.*

7 Second, Daniels argues that his health conditions poses render him particularly
 8 susceptible to serious complications should he contract COVID-19. See ECF 2–3, 8. In
 9 particular, the CDC has concluded that individuals with severe obesity may be “at higher
 10 risk for severe illness from COVID-19.” *Groups at Higher Risk for Severe Illness*,
 11 CENTER FOR DISEASE CONTROL AND PREVENTION (Apr. 2, 2020),
 12 [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html)
 13 [risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html). The necessarily close quarters and limited hygienic options for inmates of the
 14 Jail increases their risk of infection, which in turn risks the wellbeing of jail staff, their
 15 families, and the general community. Other courts and government officials have
 16 recognized that inmates are at particular risk for contracting COVID-19. Alameda County
 17 officials, for example, have released over 200 inmates from Santa Rita and the total Santa
 18 Rita inmate population has been decreased by more than 500 since March 1. See Megan
 19 Cassidy, *Alameda County Releases 250 Jail Inmates Amid Coronavirus Concerns*, *SF to*
 20 *Release 26*, SAN FRANCISCO CHRONICLE (Mar. 20, 2020, 11:21 PM),
 21 [https://www.sfchronicle.com/crime/article/Alameda-County-releases-250-jail-inmates-](https://www.sfchronicle.com/crime/article/Alameda-County-releases-250-jail-inmates-amid-15147332.php)
 22 [amid-15147332.php](https://www.sfchronicle.com/crime/article/Alameda-County-releases-250-jail-inmates-amid-15147332.php). See also, Alene Tchekmedyian, *et al.*, *L.A. County Releasing Some*
 23 *Inmates from Jail to Combat Coronavirus*, LOS ANGELES TIMES (Mar. 16, 2020, 7:25 PM),
 24 [https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-](https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-amid-coronavirus)
 25 [amid-coronavirus](https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-amid-coronavirus) (Los Angeles County jail population reduced by 600 individuals over
 26 two weeks); Aprile Rickert, *Officials Thin Jail Population to Prevent Spread of COVID-*
 27 *19*, NEWS AND TRIBUNE (Mar. 23, 2020), [https://www.newsandtribune.com/news/officials-](https://www.newsandtribune.com/news/officials-thin-jail-population-to-prevent-spread-of-covid/article_b3899a6c-6ad8-11ea-8fea-)
 28 [thin-jail-population-to-prevent-spread-of-covid/article_b3899a6c-6ad8-11ea-8fea-](https://www.newsandtribune.com/news/officials-thin-jail-population-to-prevent-spread-of-covid/article_b3899a6c-6ad8-11ea-8fea-)

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1 [072a24324cc4.html](https://courts.mt.gov/Portals/189/virus/Ltr%20to%20COLJ%20Judges%20re%20COVID-19%20032020.pdf) (Indiana counties reduce jail populations to ensure further distance
2 between inmates); Letter to Montana Courts of Limited Jurisdiction Judges (Mont. Sup.
3 Ct. Mar. 20, 2020), available at
4 [https://courts.mt.gov/Portals/189/virus/Ltr%20to%20COLJ%20Judges%20re%20COVID-
5 19%20032020.pdf](https://courts.mt.gov/Portals/189/virus/Ltr%20to%20COLJ%20Judges%20re%20COVID-19%20032020.pdf) (Chief Justice of Montana Supreme Court instructing judges to
6 “release, without bond, as many prisoners as you are able” because “due to the confines of
7 [correctional] facilities, it will be virtually impossible to contain the spread of the virus”).

8 The Court FINDS that the unprecedented, extremely serious health risk posed by
9 continued detention, exacerbated by Daniels’s health conditions, constitutes a compelling
10 reason for temporary release to a custodian under 18 U.S.C. § 3142(i).

11 Although the Court previously found that Daniels constituted a danger to the
12 community (*see* ECF 6), the COVID-19 pandemic and the reported infections at Santa Rita
13 Jail changes the calculus. Daniels now has serious, potentially life-threatening incentives
14 to obey the conditions of his release. Not only will Daniels be incentivized to comply with
15 the conditions of his release to temporarily remain out of jail, Daniels is further
16 incentivized to remain in place and avoid social contact lest he contracts COVID-19.
17 These changed conditions mitigate Daniels’ risk of danger.

18 For these reasons, the Court ORDERS Daniels temporarily released into the custody
19 of his fiancé, Diana Bailey, pursuant to 18 U.S.C. § 3142(i) under the following
20 conditions:

- 21 • Daniels is subject to 24-hour home incarceration to be enforced by location
22 monitoring technology to be determined by Pretrial Services. Daniels may
23 leave the residence only for necessary medical services with the prior
24 approval of Pretrial Services. He may not change his residence without
25 advance approval of Pretrial Services.
- 26 • Daniels shall be remanded back into custody on June 9 (which is 60 days
27 from this order), subject to extension by further Court order. Pretrial
28 Services must make a recommendation to the Court by June 2 as to whether

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the time period of temporary release should be extended.

- Daniels must maintain video conferencing capabilities to allow for remote or virtual monitoring by Pretrial Services.
- Daniels must report and disclose to Pretrial Services when any cohabitant, including himself, exhibits any symptom of any illness.
- Daniels must comply with the Shelter-in-Place order issued by California Governor Gavin Newsom, dated March 19, 2020, and any further extensions of that order. *See* Executive Order N-33-20, Exec. Dep't State of Cal. (Mar. 19, 2020); *see also infra* n.3.

The Court sets a further telephonic conference for **April 17, 2020, at 1:30 p.m.** to determine whether any additional conditions of release, or modifications, are appropriate.

This temporary release order is effective immediately and will be communicated to the USMS, Santa Rita Jail, and Pretrial Services.

IT IS SO ORDERED.

Dated: April 9, 2020



NATHANAEL M. COUSINS
United States Magistrate Judge

cc: USMS, Pretrial Services