

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-13044
Non-Argument Calendar

D.C. Docket No. 1:18-cr-20060-FAM-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDERIK BARBIERI,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(April 26, 2021)

Before JORDAN, JILL PRYOR, and LUCK, Circuit Judges.

PER CURIAM:

Frederick Barbieri appeals the district court's denial of his motion for compassionate release under the First Step Act, Pub. L. 115-391, 132 Stat. 5194. Contrary to the position it took in the district court, the government now concedes—based on recent guidance from the Centers for Disease Control – that Mr. Barbieri's medical conditions constitute an extraordinary and compelling reason for release. Those conditions (coronary artery disease, ischemia, high blood pressure, and diabetes) are serious medical conditions which according to the CDC put Mr. Barbieri at an increased risk of severe COVID-19 infection.

Given that the district court denied relief to Mr. Barbieri on the ground that he had not shown an extraordinary and compelling reason for release, and that the government has since changed its position on that issue, we agree that vacatur and remand is appropriate. *See, e.g., Griekspoor v. United States*, 511 F. 2d 137, 138 (5th Cir. 1975). On remand the district court shall re-evaluate Mr. Barbieri's motion after receiving supplemental briefing from the parties.

VACATED and REMANDED.*

* Mr. Barbieri's motion to file supplemental materials is granted.