

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-80039-CR-ROSENBERG

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SUZANNE ELLEN KAYE,
Defendant.

**UNOPPOSED MOTION FOR STATUS CHECK AND HEARING
REGARDING DEFENDANT'S MEDICAL CARE
AT THE BUREAU OF PRISONS**

Undersigned counsel fears for Mrs. Kaye's life. Counsel has been advised that she has experienced, and is currently experiencing, potentially life-threatening medical issues in her short time in the custody of the BOP. Counsel respectfully requests that this Court set a status hearing and take whatever measures necessary to ensure that Mrs. Kaye survives the prison sentence that this Court imposed.

1. On July 13, 2023, Mrs. Kaye voluntarily surrendered to FMC Carswell, in Fort Worth, Texas, to begin serving the 18-month prison sentence imposed by this Court. When imposing the sentence, the Court found that there was "no doubt" that Mrs. Kaye "does suffer from a serious health condition, in fact perhaps a number of health conditions," that she was "medically frail," and that "she will require much medical care." (DE 185:198). Despite Mrs. Kaye's undisputed seizure disorder and other medical ailments, the Court expressly relied on a BOP officer's testimony that BOP "can provide Ms. Kaye with whatever medical care she needs." (*Id.*).

2. Unfortunately, it appears that this testimony was far too rosy. In less than two months at Carswell, counsel has been advised that Mrs. Kaye has required emergency outside hospitalization on at least two separate occasions. Specifically, counsel has been advised that Mrs. Kaye has suffered ongoing, repeated seizures—including two major episodes—with the latest episode involving cardiac arrest. (It has also resulted in blood clots that are now not being monitored). While counsel does not have Mrs. Kaye’s most recent hospital records, her case manager confirmed by phone last week that she was indeed suffering from “arduous health issues.”

3. As the Court is aware—and has personally observed first-hand—Mrs. Kaye has a documented history of seizures progressing to status epilepticus, which is a life-threatening condition, especially if not quickly addressed. *See* T. Wylie et al., *Status Epilepticus*, <https://www.ncbi.nlm.nih.gov/books/NBK430686/> (last accessed September 11, 2023). The BOP officer who testified at sentencing admitted that such episodes can be life threatening. (DE 185:150-51). Counsel is concerned that the BOP has proven unable to manage or prevent these life-threatening episodes. This repeated failure is contrary to the picture painted by the government at sentencing. Counsel has also been advised fellow inmates have been forced to attempt to life-saving care during these seizures because prison officials failed to do so.

4. Counsel is not necessarily accusing the BOP facility of medical neglect. However, counsel cannot remain idle while these potentially life-threatening episodes continue to occur. Moreover, counsel feels obligated to advise the Court about what

counsel has heard in light of the representations made at sentencing, as well as the Court's intention to impose an 18-month sentence—not a death sentence.

At this time, counsel's sole priority is to ensure that Mrs. Kaye lives, and counsel is asking for the Court's help. Accordingly, counsel is currently not seeking compassionate release or reconsideration of the motion for bond pending appeal. Instead, counsel is merely asking the Court to hold a status hearing so that BOP can assure both the Court and counsel that Mrs. Kaye is receiving adequate medical care. Counsel is sufficiently concerned for her well-being that it is not prudent to wait the weeks (or months) needed for counsel to obtain documentation.

5. AUSA Mark Dispoto was contacted and does not object to the hearing.

CONCLUSION

In conclusion, at this time, undersigned counsel respectfully requests that the Court promptly set this case for a status hearing regarding Mrs. Kaye's medical care.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 12th, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ *Kristy Militello*
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