

custody a maximum of 47 days of good time credit per year. The statute was amended on December 21, 2018, to require the BOP to credit a maximum of 54 days of good time credit per year to those in its custody. Despite the statutory change, Defendants have provisionally recalculated release dates consistent with the statute but have refused to *implement* those recalculated dates until July 19, 2019. Thus, Plaintiff, and others in the custody of the BOP, have been given release dates that have already passed, but continue to be held in custody until July 19, 2019, until the BOP applies the new statute.

The BOP's failure to follow clear statutory language is agency action that has been unlawfully withheld under 5 U.S.C. § 706(1). Moreover, because the BOP's refusal to act has resulted in the unlawful custody of Plaintiff and others similarly situated, Plaintiff has suffered an irreparable injury that merits immediate action from this Court. Finally, because the BOP has no valid basis for refusing to follow its statutory directions, the balance of equities clearly favors an immediate action by this Court.

June 14, 2019

Respectfully,

/s/ Caleb Kruckenberg

Caleb Kruckenberg

Litigation Counsel

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(202) 869-5217

Counsel for Plaintiff

Appearing Pursuant to LCvR 83.2(g)

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to all counsel of record.

I certify that a copy of the foregoing was also served by registered or certified mail upon to the following:

William Barr
Attorney General of the U.S.
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
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Hugh J. Hurwitz
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Jessie K. Liu,
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Respectfully,

/s/ Caleb Kruckenberg
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I. FACTS

A term of imprisonment is satisfied through actual time in custody plus good time credits. 18 U.S.C. §§ 3624(a), (b). The Sentencing Reform Act of 1984 eliminated the federal parole system and sharply cut back on the rate at which federal prisoners could earn good time credit, providing in § 3624(b) that prisoners could receive “credit toward the service of the prisoner’s sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner’s term of imprisonment.”

The U.S. Department of Justice, Bureau of Prisons (BOP), thereafter promulgated 28 C.F.R. § 523.20(c), which provided, “For inmates serving a sentence for an offense committed on or after April 26, 1996, the Bureau will award (1) 54 days *credit for each year served* (prorated when the time served by the inmate for the sentence during the year is less than a full year) if the inmate has earned or is making satisfactory progress toward earning a GED credential or high school diploma[.]” (emphasis added). On July 16, 1993, the BOP implemented Program Statement 5880.30 to calculate good time credits under the implementing regulation.

The regulation and program statement both implemented a calculation methodology that granted good time only for a person’s time spent in prison, as opposed to the duration of the sentence actually imposed by the court. *Barber v. Thomas*, 560 U.S. 474, 476-77 (2010). As a result, the “prorated” good time calculation results in the availability of fewer than 54 days of good time credit per year of the “term of the imprisonment that the sentencing judge imposes.” *Id.* at 479. Instead, a person is eligible only for a maximum of 47 days of good time for that period. *Id.*

The First Step Act, Public Law No. 115-391, was signed into law on December 21, 2018. Section 102(b)(1)(A) implemented a “a fix to the calculation of good time credit.” 115 Cong.

Rec. H4319 (daily ed. May 22, 2018) (statement of Rep. Bobby Scott) *available at* http://cal1.uscourts.libguides.com/ld.php?content_id=46447705. As the Senate Report to the Act noted, the legislation was intended “to clarify congressional intent behind good time credit,” and reverse the *Barber* decision. Staff of S. Comm. on the Judiciary, 115th Cong., S.3649, *The First Step Act Section-by-Section Summary*, at 3 (Nov. 15, 2018) *available at* https://www.judiciary.senate.gov/download/revised-first-step_section-by-section. Indeed, Members from both parties explained that the change was meant to “clarify congressional intent,” 115 Cong. Rec. at H4318 (statement of Rep. Bob Goodlatte), ensure that the BOP “[c]alculat[ed] good time credit as Congress had originally intended,” *id.* at H4319 (statement of Rep. Bobby Scott), and “revise[] the good-time credit law to accurately reflect congressional intent by allowing prisoners to earn 54 days of credit per year, rather than 47 days.” 115 Cong. Rec. S7314 (daily ed. Dec. 5, 2018) (statement of Sen. Ben Cardin).

As relevant here, Section 102(b)(1)(A) amended Section 3624 “(i) by striking ‘, beyond the time served, of up to 54 days at the end of each year of the prisoner’s term of imprisonment, beginning at the end of the first year of the term,’ and inserting ‘of up to 54 days for each year of the prisoner’s sentence imposed by the court,’; and (ii) by striking ‘credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence’ and inserting ‘credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment.’”

Thus, the statute *now* says that an eligible prisoner “may receive credit toward the service of the prisoner’s sentence of up to 54 days for each year of the prisoner’s *sentence imposed* by the court[.]” 18 U.S.C. § 3624(b).

Section 102(b)(1)(A) did not contain an explicit effective date. However, several other aspects of Section 102 did.

Section 102 implemented three distinct amendments to existing law. First, Section 102(a) amended 18 U.S.C. § 3621 to “implement [a] risk and needs assessment system,” which would then be used to provide certain prisoners with expanded opportunities to “earn time credits” under Section 101 of the Act. Second, Section 102(b)(1) made changes to “prerelease custody” statutes, and, as discussed, in Section 102(b)(1)(A) implemented the good-time fix. Finally, Section 102(b)(1)(B) expanded opportunities for limited confinement placement for inmates benefitting from the new “risk and needs assessment system.”

Section 101(a) amended 18 U.S.C. § 3632 to direct the Attorney General to “develop and release publicly on the Department of Justice website a risk and needs assessment system” “[n]ot later “than 210 days after the date of enactment of this subchapter.” Section 102(a) provided the Attorney General with an additional “180 days after the Attorney General completes and releases the risk and needs assessment system” to implement the risk and needs assessment system.

Section 102(b)(2) then provided an “effective date” for the “amendments made by this subsection,” and said that they “shall take effect beginning on the date that the Attorney General completes and releases the risk and needs assessment system under subchapter D of chapter 229 of title 18, United States Code, as added by section 101(a) of this Act.” At the same time Section 102(b)(3) provided that the “amendments made by this subsection shall apply with respect to offenses committed before, on, or after the date of enactment of this Act, except that such amendments shall not apply with respect to offenses committed before November 1, 1987.”

After December 21, 2018, the BOP did not implement the amended language found in the First Step Act. Instead, in June 2019, the BOP announced it would implement the amended language on July 19, 2019, which was 210 days after the passage of the statute.

With respect to Mr. Shipp, the BOP has calculated his release date under the amended statute as being **May 6, 2019**, which date has already passed, but nevertheless refuses to *apply* that release date until July 19, 2019. (Attachment C.) Indeed, as of May 7, 2019, the BOP calculated that Mr. Shipp’s full-term sentence expiration was September 1, 2023, but calculated his projected release date as November 26, 2019, based on his good time credits. (Attachment B.) However, as of June 12, 2019, the BOP revised this calculation to reflect a “First Step Act Release” date of July 19, 2019. (Attachment C.) At the same time, the BOP has also calculated Mr. Shipp’s release date as May 6, 2019, based on his “projected” good time as of July 19th. (Attachment C.)

If, however, the BOP were to properly apply the calculation found in amended Section 3624(b) and grant Mr. Shipp 54 days of good time per year of the “sentence imposed by the court,” as of June 12, 2019, he would have earned 1601 days of good time, and would be projected to earn 1620 days of good time by November 26, 2019. This new statutory calculation would result in a release date of **March 25, 2019**, which date has already passed. In other words, applied on January 1, 2019, Mr. Shipp’s credit for the last year of his term of imprisonment resulted in a release date that has since passed.

II. ARGUMENT

Mr. Shipp is entitled to a temporary restraining order and preliminary injunction if he shows: (1) a likelihood of success on the merits; (2) a likelihood that he will suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4)

that the injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 21 (2008); see also *Hall v. Johnson*, 599 F.Supp.2d 1, 3 n. 2 (D. D.C.2009) (Collyer, J.) (“The same standard applies to both temporary restraining orders and to preliminary injunctions.”). A preliminary injunction may appropriately “compel agency action unlawfully withheld[.]” *Enesco Offshore Co. v. Salazar*, 781 F. Supp. 2d 332, 336 (E.D. La. 2011) (quoting 5 U.S.C. § 706(1)).

For the reasons that follow, Mr. Shipp has satisfied all four elements of this test.

A. Mr. Shipp Is Likely to Prevail on the Merits

The Administrative Procedure Act says, “A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702. Under such review, a Court “shall ... compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

“[T]he Bureau of Prisons is an ‘agency’ for purposes of the APA.” *White v. Henman*, 977 F.2d 292, 294 (7th Cir. 1992). As a result, a person adversely affected by a BOP rule or program statement may seek a declaratory judgment about the lawfulness of the agency action. *Id.* at 294.¹

For APA “challenges based on [] statutory language” a court’s review is structured by *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). *Zero Zone, Inc. v. United States Dep’t of Energy*, 832 F.3d 654, 668 (7th Cir. 2016). In “review[ing] an agency’s construction of [a] statute which it administers,” the first

¹ Mr. Shipp does not challenge the length of his sentence, but merely the method the BOP has applied in calculating it. While the former challenge would ordinarily be brought in a petition for a writ of habeas corpus, the latter is properly brought as an APA challenge because it is a challenge to the “rule that will be used to decide” his confinement not “the substance of any eventual decision.” *Richmond v. Scibana*, 387 F.3d 602, 605 (7th Cir. 2004); see also *White*, 977 F.2d at 295 (challenge to good time policy was properly brought under APA because it could result in a “declaratory judgment” as to the validity of the BOP policy, not the sentence itself).

question for the court is “whether Congress has directly spoken to the precise question at issue.” *Chevron U.S.A., Inc.*, 467 U.S. at 842. “If the intent of Congress is clear, that is the end of the matter, for the court as well as the agency, must give effect to the unambiguously expressed intent of Congress.” *Id.* Under this analysis, the court “must reject administrative constructions which are contrary to clear congressional intent,” because the “judiciary is the final authority on issues of statutory construction.” *Id.* at n. 9; *see also Webster v. Luther*, 163 U.S. 331, 342 (1896) (“[T]his court has often said that it will not permit the practice of an executive department to defeat the obvious purpose of a statute.”). Indeed, “[r]egardless of how serious the problem an administrative agency seeks to address [] it may not exercise its authority in a manner that is inconsistent with the administrative structure that Congress enacted into law.” *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 125 (2000) (internal citation and quotation marks omitted).

A petitioner can compel agency action under 5 U.S.C. § 706(1) when he “asserts an agency failed to take a *discrete* agency action that it *is required to take*.” *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 64 (2004). This occurs, for example, “when an agency is compelled by law to act within a certain time period[.]” *Id.* at 65. Indeed, “when an entity governed by the APA fails to comply with a statutorily imposed absolute deadline, it has unlawfully withheld agency action and courts, upon proper application, must compel the agency to act.” *Forest Guardians v. Babbitt*, 174 F.3d 1178, 1190 (10th Cir. 1999); *accord South Carolina v. United States*, 907 F.3d 742, 758 (4th Cir. 2018); *Vietnam Veterans of America v. Central Intelligence Agency*, 811 F.3d 1068, 1081 (9th Cir. 2016). Critically, “when Congress by organic statute sets a specific deadline for agency action, neither the agency nor any court has discretion. The agency must act by the deadline. If it withholds such timely action, a reviewing court must compel the

action unlawfully withheld. To hold otherwise would be an affront to our tradition of legislative supremacy and constitutionally separated powers.” *Forest Guardians*, 174 F.3d at 1190.

The BOP’s failure to adhere to the statutory changes put in place by the First Step Act are unlawful and must be corrected by this Court. First, it appears that the good time fix in the First Step Act was intended to take immediate effect. Section 102(b)(1)(A) has no explicit effective date. And “when a statute has no effective date, ‘absent a clear direction by Congress to the contrary, [it] takes effect on the date of its enactment.’” *Johnson v. United States*, 529 U.S. 694, 702 (2000) (quoting *Gozlon-Peretz v. United States*, 498 U.S. 395, 404 (1991)); see also *Lapeyre v. United States*, 84 U.S. 191, 198 (1872) (“There is no statute fixing the time when acts of Congress shall take effect, but it is settled that where no other time is prescribed, they take effect from their date.”). Moreover, “Congressional silence” as to a statute’s effective date “is a clear statement of immediate effectiveness,” precluding any finding of statutory ambiguity on this score. *Ausmus v. Perdue*, 289 F. Supp. 3d 1227, 1235 (D. Colo. 2017), *aff’d*, 908 F.3d 1248 (10th Cir. 2018). Thus, given the statute’s silence, the good time fix in Section 102(b)(1)(A) presumptively became effective on December 21, 2018, which was the day the Act became law. On that day the BOP should have recalculated Mr. Shipp’s good time and provided him with all of his back good time credits under the retroactivity provision found in Section 102(b)(3).

Other effective date provisions within the First Step Act simply do not apply to Section 102(b)(1)(A). To be sure, Section 102(b)(2) provides an “effective date” for the “amendments made by this subsection,” and said that they “shall take effect beginning on the date that the Attorney General completes and releases the risk and needs assessment system ... added by section 101(a) of this Act.” But contextually that does not apply to the good time fix, and instead only applies to the expansion of opportunities for limited confinement found in Section

102(b)(1)(B). Of Section 102's three distinct changes to law, two obviously and unequivocally relate to the new "risk and needs assessment." Section 102(a) "implement[s] the risk and needs assessment system" while Section 102(b)(1)(B) expands opportunities for limited confinement placement for inmates benefitting from the new "risk and needs assessment system." Obviously neither provision *could* be effective without the risk and needs assessment first being in place. And Section 102(b)(2) provides that the limited confinement expansion will be effective when "the Attorney General completes and releases the risk and needs assessment system." Whereas Section 102(a) separately provides the Attorney General with an additional "180 days after the Attorney General completes and releases the risk and needs assessment system" to implement the risk and needs assessment system. Thus, Section 102(b)(2) triggers the effective dates for Section 102(b)(1)(B) and Section 102(a).

While the statute is not ambiguous, to the extent that it is unclear when the good time fix becomes effective, three canons of statutory interpretation require this Court to give it immediate effect. First, as discussed, courts must presume that a statute "takes effect on the date of its enactment," "absent a clear direction by Congress to the contrary." *Gozlon-Peretz*, 498 U.S. at 404. This means that any "ambiguity" created by the statute's silence must be resolved in favor of "immediate effectiveness." *Ausmus*, 289 F. Supp. 3d at 1235. To the extent that the statutory structure makes it unclear whether the other implementation dates found in the First Step Act might be read to apply to Section 102(b)(1)(A), the ambiguity created by the statutory silence in that section raises the presumption of immediate effect. This ambiguity must be resolved in favor of immediate recalculation.

Second, because the amendment clarified Congressional intent concerning good time credit, it is presumptively applicable retroactively. "Normally, when an amendment is deemed

clarifying rather than substantive, it is applied retroactively.” *ABKCO Music, Inc. v. LaVere*, 217 F.3d 684, 689 (9th Cir. 2000) (internal citation and quotation marks omitted); *see also Clay v. Johnson*, 264 F.3d 744, 749 (7th Cir. 2001) (noting that an agency rule clarifying an unsettled area of law may be applied to case at hand); *Piamba Cortes v. Am. Airlines, Inc.*, 177 F.3d 1272, 1283 (11th Cir. 1999) (“[C]oncerns about retroactive application are not implicated when an amendment ... is deemed to clarify relevant law rather than effect a substantive change in the law.”). “A number of factors may indicate whether an amendment is clarifying rather than substantive: whether the enacting body declared that it was clarifying a prior enactment; whether a conflict or ambiguity existed prior to the amendment; and whether the amendment is consistent with a reasonable interpretation of the prior enactment and its legislative history.” *Middleton v. City of Chicago*, 578 F.3d 655, 663-64 (7th Cir. 2009).

The legislative history in this case clearly indicates that Congress intended the First Step Act to clarify the meaning of the good time credit statute and, thus, for it to apply immediately. Indeed, the Congressional record is filled with references to Section 102(b)(1)(A)’s implementation of a “a fix to the calculation of good time credit.” 115 Cong. Rec. H4319 (daily ed. May 22, 2018) (statement of Rep. Bobby Scott) *available at* http://call.uscourts.libguides.com/ld.php?content_id=46447705. The Senate Report to the Act noted that the legislation was intended “to clarify congressional intent behind good time credit,” and reverse the *Barber* decision. Staff of S. Comm. on the Judiciary, 115th Cong., S.3649, *The First Step Act Section-by-Section Summary*, at 3 (Nov. 15, 2018) *available at* https://www.judiciary.senate.gov/download/revised-first-step_section-by-section. And Members from both parties explained that the change was meant to “clarify congressional intent,” 115 Cong. Rec. at H4318 (statement of Rep. Bob Goodlatte), ensure that the BOP “[c]alculat[ed]

good time credit as Congress had originally intended,” *id.* at H4319 (statement of Rep. Bobby Scott), and “revise[] the good-time credit law to accurately reflect congressional intent by allowing prisoners to earn 54 days of credit per year, rather than 47 days.” 115 Cong. Rec. S7314 (daily ed. Dec. 5, 2018) (statement of Sen. Ben Cardin). Undoubtedly, the statutory amendment was meant to correct the *Barber* decision, and, thus, was a clarifying amendment. *See Middleton*, 578 F.3d at 663-64. It should be presumed to take immediate, retroactive, effect. *See ABKCO Music, Inc.*, 217 F.3d at 689.

Finally, the rule of lenity requires this Court to construe any ambiguity with respect to the statute’s effective date in favor of Mr. Shipp. The rule of lenity is a constitutionally-required canon of construction that dictates that any “ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity.” *Skilling v. United States*, 561 U.S. 358, 410 (2010); *see also United States v. Kozminski*, 487 U.S. 931, 952 (1988). The rule of lenity holds that a law must speak “in language that is clear and definite” if it is to render something a crime. *United States v. Bass*, 404 U.S. 336, 347 (1971) (citation and internal quotation marks omitted). “Application of the rule of lenity ensures that criminal statutes will provide fair warning concerning conduct rendered illegal and strikes the appropriate balance between the legislature, the prosecutor, and the court in defining criminal liability.” *Liparota v. United States*, 471 U.S. 419, 427 (1985). Moreover, “criminal laws are for courts, not for the Government, to construe[,]” and thus the rule of lenity applies even in the face of contrary agency understanding. *Abramski v. United States*, 573 U.S. 169, 191 (2014); *see also United States v. Apel*, 571 U.S. 359, 369 (2014) (“[W]e have never held that the Government’s reading of a criminal statute is entitled to any deference.”). Moreover, because the rule of lenity applies “not only to interpretations of the substantive ambit of criminal prohibitions, but also to the penalties they impose” *Bifulco v.*

United States, 447 U.S. 381, 387 (1980), the Court has assumed that the rule of lenity applies to Section 3624(b)(1). *Barber v. Thomas*, 560 U.S. 474, 488 (2010).

If the First Step Act's implementation provisions are ambiguous as to whether they apply to the narrow good-time fix found in Section 102(b)(1)(A), the rule of lenity should resolve this ambiguity in favor of lesser criminal penalties, and thus, for immediate effectiveness. After all, the First Step Act was undoubtedly remedial, and undoubtedly intended to diminish criminal punishment. If it is unclear whether it was meant to provide immediate or future relief from imprisonment, then the rule of lenity requires resolution in favor of immediate relief. *See Bifulco*, 447 U.S. at 387.

B. Mr. Shipp Will Suffer Irreparable Injury

To satisfy the irreparable harm requirement, Mr. Shipp need only demonstrate that absent a preliminary injunction, he is "likely to suffer irreparable harm before a decision on the merits can be rendered." *Winter*, 555 U.S. at 22 (internal citation and quotation marks omitted). And when Congress has "created the right to good time" the prisoner has a real constitutional interest in "liberty" under the Due Process Clause. *Wolff v. McDonnell*, 418 U.S. 539, 557 (1974). Moreover, the violation of a fundamental constitutional right constitutes irreparable harm, even if temporary. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

There could hardly be a more compelling irreparable injury than the one Mr. Shipp, and those similarly affected by the BOP's inaction, faces. By the BOP's own calculation, Mr. Shipp was entitled to be released no later than May 6, 2019. Yet today, more than a month later, the BOP continues to confine him to federal custody because it simply refuses to apply the law as it is written. And the BOP is doing so in the face of a federal statute passed to address the very problem of the BOP not properly awarding good time credit. Thousands of other people in the

custody of the BOP face the same injury. Each minute that Mr. Shipp and those in his position spend in custody unlawfully is an irreparable injury that can never be adequately remedied.

C. The Balance of Equities Warrants the Injunction

A party seeking a preliminary injunction must demonstrate both “that the balance of equities tips in [its] favor, and that an injunction is in the public interest.” *Winter*, 555 U.S. at 20. “These factors merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Finally, the equities clearly favor compelling the BOP to implement the statutory amendments immediately. Congress has already made the legislative decision that Mr. Shipp and those in his position must be given the full good-time credit immediately. Indeed, the statute requires that the credit for the final year of a sentence be given on January 1st—not July 19th. *See* 18 U.S.C. § 3624(b). The BOP has *no* interest in gainsaying that decision. And the BOP obviously has the capacity to recalculate sentences according to the statutory change, as it has already done so with Mr. Shipp. The BOP simply insists that it will not *act* on its recalculations until July 19, 2019. The BOP has no legitimate interest in unlawfully delaying implementation of the statute. Thus, the equities warrant an injunction ordering the BOP to act in compliance with law.

III. CONCLUSION

For the reasons set out above, the Court should enter a temporary restraining order and preliminary injunction ordering Defendants to apply the now-applicable text of 18 U.S.C. § 3624(b) immediately.

June 14, 2019

Respectfully,

/s/ Caleb Kruckenberg

Caleb Kruckenberg

Litigation Counsel

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(202) 869-5217

Counsel for Plaintiff

Appearing Pursuant to LCvR 83.2(g)

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to all counsel of record.

I certify that a copy of the foregoing was also served by registered or certified mail upon to the following:

William P. Barr
Attorney General of the U.S.
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
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Hugh J. Hurwitz
Acting Director
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Jessie K. Liu,
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United States Attorney's Office for the
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Respectfully,

/s/ Caleb Kruckenberg
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(202) 869-5217
Counsel for Plaintiff
Appearing Pursuant to LCvR 83.2(g)

7. Plaintiff is suffering and will continue to suffer irreparable injury through continued, unlawful, incarceration absent emergency action by this Court.

8. I certify that a copy of Plaintiff's Complaint, Emergency Motion for a Temporary Restraining Order and Preliminary Injunction, including its accompanying Statement of Points and Authorities and all supporting documents, was served by registered or certified mail and by personal service on June 14, 2019 to the following:

William P. Barr
Attorney General of the U.S.
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Hugh J. Hurwitz
Acting Director
U.S. Bureau of Prisons
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Washington, D.C. 20534

Jessie K. Liu,
United States Attorney
United States Attorney's Office for the
District of Columbia
555 4th Street, N.W.
Washington, D.C. 20001

9. Attached to this declaration are true and correct copies of the following documents:

- a. Attachment B: Public Information Inmate Data for Robert Shipp as of 5-7-2019;
- and
- b. Attachment C: Public Information Inmate Data for Robert Shipp as of 6-12-2019.

June 14, 2019

Respectfully,

/s/ Caleb Kruckenberg
Caleb Kruckenberg
Litigation Counsel

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Appearing Pursuant to LCvR 83.2(g)

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PAGE 001

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PUBLIC INFORMATION
INMATE DATA
AS OF 05-07-2019

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05-07-2019
08:57:18

REGNO...: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH
PHONE...: 630-271-8669

FAX: 630-271-8676
RACE/SEX...: BLACK / MALE
AGE: 46
PAR ELIG DT: N/A
PAR HEAR DT:

PROJ REL MT: GOOD CONDUCT TIME RELEASE
PROJ REL DT: 11-26-2019

G0002

MORE PAGES TO FOLLOW . . .

*
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PUBLIC INFORMATION
INMATE DATA
AS OF 05-07-2019

*
*

REGNO.: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH

PHONE.: 630-271-8669 FAX: 630-271-8676

HOME DETENTION ELIGIBILITY DATE: 05-26-2019

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 11-26-2019 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: ILLINOIS, NORTHERN DISTRICT
DOCKET NUMBER.....: 93 CR 350-4
JUDGE.....: ASPEN
DATE SENTENCED/PROBATION IMPOSED: 07-14-1994
DATE COMMITTED.....: 08-31-1994
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$450.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE....: 409
OFF/CHG: 21:846&843(B)&18:2, CONSP TO PWITD & DIST OF COCAINE BASE &
COCAINE; CONSP TO USE COMM OF DRUG TRAFFICKING OFFENSES(CT 1);
21USC843(B) USE OF COMMUNICATION FACILITY TO FACIL. THE COMM.
OF DRUG TRAFFICKING OFFENSE (CTS 2,11,14-16,23,24 & 26)

SENTENCE PROCEDURE.....: 3559 SRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: LIFE
NEW SENTENCE IMPOSED.....: 360 MONTHS
BASIS FOR CHANGE.....: USSG DRG QNTTY DCSN 11-01-2014
DATE OF OFFENSE.....: 03-14-1993

*
*

PUBLIC INFORMATION
INMATE DATA
AS OF 05-07-2019

*
*

REGNO.: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH
PHONE.: 630-271-8669 FAX: 630-271-8676

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 03-20-2015 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-20-2015 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 07-14-1994
TOTAL TERM IN EFFECT.....: 360 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 30 YEARS
EARLIEST DATE OF OFFENSE.....: 03-14-1993

JAIL CREDIT.....	FROM DATE	THRU DATE
	02-16-1993	02-17-1993
	05-06-1993	05-06-1993
	05-27-1993	05-27-1993
	06-20-1993	06-21-1993
	09-07-1993	07-13-1994

TOTAL PRIOR CREDIT TIME.....: 316
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 1375
TOTAL GCT EARNED.....: 1309
STATUTORY RELEASE DATE PROJECTED: 11-26-2019
EXPIRATION FULL TERM DATE.....: 09-01-2023
TIME SERVED.....: 25 YEARS 8 MONTHS 5 DAYS
PERCENTAGE OF FULL TERM SERVED...: 85.5

DSCDJ *
PAGE 004 OF 004 *

PUBLIC INFORMATION
INMATE DATA
AS OF 05-07-2019

* 05-07-2019
* 08:57:18

REGNO..: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH
PHONE..: 630-271-8669 FAX: 630-271-8676

PROJECTED SATISFACTION DATE.....: 11-26-2019
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

DSCGN
PAGE 001

*
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PUBLIC INFORMATION
INMATE DATA
AS OF 06-12-2019

*
*

06-12-2019
09:53:19

REGNO...: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH
PHONE...: 630-271-8669

FAX: 630-271-8676
RACE/SEX...: BLACK / MALE
AGE: 46
PAR ELIG DT: N/A
PAR HEAR DT:

PROJ REL MT: FIRST STEP ACT RELEASE
PROJ REL DT: 07-19-2019

G0002

MORE PAGES TO FOLLOW . . .

REGNO...: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH

PHONE...: 630-271-8669 FAX: 630-271-8676

HOME DETENTION ELIGIBILITY DATE: 01-19-2019

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 07-19-2019 VIA FSA REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: ILLINOIS, NORTHERN DISTRICT
DOCKET NUMBER.....: 93 CR 350-4
JUDGE.....: ASPEN
DATE SENTENCED/PROBATION IMPOSED: 07-14-1994
DATE COMMITTED.....: 08-31-1994
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$450.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE....: 409
OFF/CHG: 21:846&843(B)&18:2, CONSP TO PWITD & DIST OF COCAINE BASE &
COCAINE; CONSP TO USE COMM OF DRUG TRAFFICKING OFFENSES (CT 1);
21USC843(B) USE OF COMMUNICATION FACILITY TO FACIL. THE COMM.
OF DRUG TRAFFICKING OFFENSE (CTS 2,11,14-16,23,24 & 26)

SENTENCE PROCEDURE.....: 3559 SRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: LIFE
NEW SENTENCE IMPOSED.....: 360 MONTHS
BASIS FOR CHANGE.....: USSG DRG QNTTY DCSN 11-01-2014
DATE OF OFFENSE.....: 03-14-1993

*
*

PUBLIC INFORMATION
INMATE DATA
AS OF 06-12-2019

*
*

REGNO...: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH

PHONE...: 630-271-8669 FAX: 630-271-8676

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 06-03-2019 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-20-2015 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 07-14-1994
TOTAL TERM IN EFFECT.....: 360 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 30 YEARS
EARLIEST DATE OF OFFENSE.....: 03-14-1993

JAIL CREDIT.....:	FROM DATE	THRU DATE
	02-16-1993	02-17-1993
	05-06-1993	05-06-1993
	05-27-1993	05-27-1993
	06-20-1993	06-21-1993
	09-07-1993	07-13-1994

TOTAL PRIOR CREDIT TIME.....: 316
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 1579
TOTAL GCT EARNED.....: 1309
STATUTORY RELEASE DATE PROJECTED: 05-06-2019
EXPIRATION FULL TERM DATE.....: 09-01-2023
TIME SERVED.....: 25 YEARS 9 MONTHS 10 DAYS
PERCENTAGE OF FULL TERM SERVED...: 85.9

DSCGN *
PAGE 004 OF 004 *

PUBLIC INFORMATION
INMATE DATA
AS OF 06-12-2019

* 06-12-2019
* 09:53:19

REGNO...: 05447-424 NAME: SHIPP, ROBERT E

RESP OF: CCH
PHONE...: 630-271-8669 FAX: 630-271-8676

PROJECTED SATISFACTION DATE.....: 07-19-2019
PROJECTED SATISFACTION METHOD....: FSA REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED