

**DECLARATION OF RAYMOND R. VALAS, III**

I, Raymond R. Valas, III, am over the age of 18 and fully competent to make the following declaration:

1. I am currently incarcerated at the Federal Correctional Institution at Fort Dix. My Federal Bureau of Prisons Register Number is 21449-052. I was convicted in the Western District of Texas of one count of violating 18 U.S.C. § 1591(a) & (b)(2) arising out of allegations that I had sexual relations with an underaged prostitute in August 2013. I maintain my innocence and have filed a petition pursuant to 28 U.S.C. § 2255 and a motion for new trial based on newly discovered evidence, *Brady*, and ineffective assistance of counsel, which is pending in the District Court for the Western District of Texas, *Raymond R. Valas, III v. United States of America*, No. SA-17-CV-733-FB; No. SA-13-CR-806-FB (W.D. Tex.). I am currently serving a 15-year sentence and am scheduled for release on Feb. 28, 2027 due to good time credit I have earned by maintaining good behavior while incarcerated. I have no prior offenses of any kind. My PATTERN score is -4, indicating a “minimal risk of recidivism,” the lowest possible risk.

2. I suffer from exercise-induced asthma, which was diagnosed by Col. Patrick Tangney MD (Ret.) USARNG, a Board-Certified Pulmonology/Critical Care Physician, in 2009-2010. Because I was experiencing shortness of breath and severe wheezing after vigorous activity following my deployment to Iraq, I was referred to a Pulmonology Specialist at Hanscom AFB in Massachusetts, Col. Tangney. Col. Tangney examined me and sent me for testing at the Medical Command in Manchester, NH (co-located with the Manchester VA). After that, Col. Tangney diagnosed me with exercise-induced asthma and prescribed two medications: a rescue inhaler for use as needed and a purple disc inhaler to be used regularly, at least initially. I was removed from the 197th Deployment to Kuwait in 2010/2011 due to lung function issues and asthma.

3. On May 1, 2020, my attorney, S. Amy Spencer, filed a petition with Warden Ortiz requesting that the Bureau of Prisons (“BOP”) move the court for compassionate release or home confinement, or, in the alternative, that Warden Ortiz and the BOP grant me home confinement or furlough until there is either an effective treatment or vaccine for COVID-19 that is accessible to me. I have not received a decision on my petition to Warden Ortiz as of the date of this declaration, although on or about May 15, 2020, informally, my case manager informed me that it would be denied.

4. On Saturday, May 9, 2020, at approximately 10:00 a.m., I saw a doctor for the first time since I have been at FCI Ft. Dix, notwithstanding the fact that I arrived in June 2015 and have left and returned most recently for my January 2020 hearing on February 19, 2020.

5. The doctor told me that the reason I was being seen was because Warden Ortiz had received my petition for compassionate release. He asked why I wasn’t taking anything for my asthma, and I told him it was because that was the first time I’d seen a doctor here in 5 years.

6. After examining me, the doctor prescribed a rescue inhaler for my asthma. As of this date, I have not received notification that it has arrived. The doctor also said he would order blood work done for me because in addition to asthma, I have a family history of diabetes.

7. According to the Centers for Disease Control and Prevention (“CDC”), asthma is an underlying condition that puts me at risk of “severe illness from COVID-19.” My doctor says that it puts me at increased risk for COVID-19 infection, complications, and death. These conditions make me medically vulnerable and afraid for my life of getting infected with COVID-19.

8. At FCI Ft. Dix, I am the co-founder of the Veterans Support Group. I have taught German, Spanish, English, and Sicilian to other inmates. I sought and received

permission to teach a class on Shakespeare, which was so popular that I ended up teaching 3 classes. I was approved to teach a fourth Shakespeare class and a third German class but have not been able to do so due to COVID-19. I also work in the library, have helped other inmates lose weight, get into shape, and lead healthier lifestyles, and since the quarantine, I took it upon myself to catalogue the books available in my building and create a sign-out list, ensuring that each book is accounted for so that other inmates can enjoy them.

9. I know what proper sanitation and quarantine conditions are because in my prior position as a Lt. Col. in the New Hampshire Army National Guard at the Joint Force Headquarters, I was responsible for helping to run exercises for 12th CST (civil support team) handling CBRNE response (Chemical Biological Radiological Nuclear Explosive). Because of this experience, I know what proper disinfecting of an area consists of and what a quarantine is supposed to look like. Based on that experience, the way it is being done at FCI Ft. Dix is tragic.

10. I am currently housed in Building 5802 on the west side of the prison. I am in a two-person room with my roommate. Even in a 2-person room, there is no way for me to stay 6' away from my roommate. Our beds are only 3' apart. It is also impossible to socially distance in 12-person rooms. I have also been in a 16-person room in the past, and it would be similarly be impossible to socially distance in those rooms. I am lucky to be in a two-man room, but I still have contact with shared space and surfaces with hundreds of other people in my building each day.

11. My roommate works in the kitchen and prepares meals for individuals who have tested positive for COVID-19 and are housed in the quarantine building on west campus, which is also the commissary and laundry building. The laundry is on the 1<sup>st</sup> floor, and the quarantined inmates are on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

12. I know the following from my roommate who works on the p.m. shift in the chow hall: Through the process of getting food and ice and water to the quarantine building, there is interaction between the quarantine wing and the main west campus. There are four officers in the quarantine building. They send 1 officer over to get water and food from the chow hall four times per day. They generally wear gloves and masks when picking up food. They pick up food in a big red crate and carry the milk over in a crate. Both of those crates travel back and forth between the quarantine building and the building containing the chow hall. The trays themselves are Styrofoam and are thrown away in the quarantine building, but the guard every day carries a big Gatorade-type cooler back and forth with ice and water in it for the quarantine building. Because the quarantine building is the laundry building, there is no potable water there. The guard fills the cooler in the chow hall every day then all the quarantined inmates get ice from it all day, and the guard brings it back to the chow hall to refill it. The water jug went back and forth through the month of April, but it does not go back and forth now. However, at least one or more guards travel back and forth from the quarantined building to the main campus for food and milk every day.

13. We all who live on the west campus have to go to the quarantine building to pick up commissary items such as soap and toothpaste and laundry in the building where the patients who have tested positive for COVID-19 are quarantined. Each and every inmate has to go to 1st floor of the quarantine building for clean sheets, blankets, and pillowcases. Our clothing goes into a bin in our unit and is wheeled into the quarantine building, washed, and returned that afternoon. Staff necessarily go back and forth between the quarantine building and my building to transport the laundry.

14. When I have gone to the chow hall, I see officers who come in wearing no mask

and only wear a mask when they are expressly told to. Many must be told 4 or more times in the amount of time I'm in the chow hall.

15. This week, I walked into the chow hall and saw an officer who had no mask on. He had his mask around his neck and was telling inmates to put masks on.

16. None of the officers wear gloves, and they come in and do pat down searches of inmates without gloves on. On the morning of May 13, 2020, I watched an officer do a pat down of an inmate without gloves.

17. I learned that, on or about Sunday, May 3, 2020, an officer responsible for supervising kitchen staff (including inmate workers) told the kitchen staff that another officer who supervised the kitchen staff and scanned IDs of inmates entering the chow hall tested positive for COVID-19. My roommate, who works in the kitchen, initially told me, but it is common knowledge among inmates and staff now. It is so widely known and discussed among inmates and staff that I believe it would be impossible for Warden Ortiz not to know that this officer tested positive.

18. The officer who tested positive is one of the officers who scans the IDs of every person on west campus going into the only chow hall. He works 5 days per week, not always Monday through Friday. He works the a.m. shift, which is from 4 a.m. to noon. P.M. is 11 a.m. to 8 p.m. during Ramadan, so there is at least an hour overlap between the two shifts.

19. There are two shifts of kitchen workers as well with approximately 25 individuals on each shift. However, there is a 1 to 2-hour overlap when both the a.m. and p.m. inmate kitchen crews are working together.

20. Both inmate kitchen crews come into close contact with the officer who tested positive for COVID-19.

21. The officer who tested positive is not currently scanning IDs, and, unfortunately I understand from my roommate who learned from his supervisor that the officer who tested positive is very sick. When he was scanning IDs during the pandemic, he usually wore a mask but no gloves. He did not have to touch the IDs because he had a scanner that would scan them without touching them, but he came within 6 inches of nearly every inmate several times per week.

22. According to my roommate, in between meal shifts, the officer who tested positive was much more lax and did not usually wear a mask.

23. My roommate told me his supervisor said that, since the officer tested positive, 25 inmates and the other co-founder of the Veterans Support Group from the main campus were tested for COVID-19 on May 5 or 6, 2020. The inmates who were tested worked on the a.m. kitchen crew. Although the p.m. crew, including my roommate, also came into the same close contact with the officer who tested positive for 1-2 hours per day, no one on the p.m. crew, including my roommate, was tested.

24. When members of the p.m. crew asked why they were not being tested because they had been in close contact with the officer who tested positive also, my roommate told me that they did not receive direct answers.

25. I have not been tested even though I came into close contact with the officer who tested positive regularly when I entered the chow hall and even though my roommate works on the p.m. kitchen crew and came into the same close contact with the officer who tested positive as the a.m. crew who were tested.

26. Relatedly, while thankfully I am not aware of any inmate in my building experiencing symptoms, I have heard inmates say regularly that they would be intimidated to

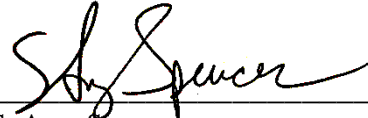
report symptoms if they have them because they are afraid of going to the quarantine building.

27. As far as I am aware, the only symptom of COVID-19 being regularly tested for in my building is fever. For the first two weeks, the staff was taking inmate temperatures during room checks using a thermometer that touched each person's forehead without sanitizing the thermometer between individuals. Now, the staff is checking temperatures every other day during room checks using a thermometer that hovers about 1 cm over our foreheads, which sometimes touches a person inadvertently, without sanitizing the thermometer between individuals. To my knowledge, the highest temperature the thermometer registers is 97.9 degrees Fahrenheit.

28. Because of this contact I have had with the officer who tested positive, especially in light of my diagnosed asthma, I feel exposed, vulnerable, nervous, and fearful for my life. I do not feel like I am being adequately protected from this deadly virus because there has not been adequate contact tracing of individuals who came into contact with the officer who tested positive and testing of those individuals.

/s/ Raymond R. Valas (by consent)

I, S. Amy Spencer, certify that I am attorney of record for Raymond R. Valas, III in *Raymond R. Valas, III v. United States of America*, No. SA-17-CV-733-FB; No. SA-13-CR-806-FB (W.D. Tex.). I further certify that I reviewed the information contained in this declaration with Mr. Valas by telephone on May 13, 14, 15, and 19, 2020 and that, at that time, he certified that the information contained in this declaration was true and accurate to the best of his knowledge.



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