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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 CITY AND COUNTY OF SAN FRANCISCO

11 People of the State of California,
Plaintiff,
12 v.
13 ABC,
14 Defendant.

Court No: _____

Motion for Formal Bail Hearing and Order
Releasing Defendant on Own Recognizance

15
16 Date: _____
17 Time: _____
18 Dept: _____

16 Defendant moves the court for a bail hearing and an order granting his release. This motion is
17 based on the attached points and authorities, the declaration of counsel, and any testimony or evidence
18 adduced at the hearing on this motion.

19 **Changed Circumstances: COVID-19 Outbreak**

20 Currently, San Francisco is experiencing a COVID-19 outbreak via community transmission. An
21 outbreak is when a large number of people suddenly get sick. The Mayor of San Francisco declared a
22 State of Emergency on February 25, 2020.[1] Public health officials recommended community actions
23 to reduce people’s risk of being exposed to COVID-19.[2]

24 On March 6, 2020, the San Francisco Department of Public Health announced “aggressive
25 recommendations” for San Francisco to reduce the spread of COVID-19 Coronavirus, including social
26 distancing and that people over 60 or with underlying health conditions stay at home as much as
27 possible.[3]

28 With confirmed cases that indicate community spread, the time is now to take action to protect

1 vulnerable populations and the community at large. According to the Centers for Disease Controls and
2 Prevention the people at higher risk of getting very sick from this illness include: (1) adults over the age
3 of 60 and (2) people who have serious chronic medical conditions like heart disease, diabetes and lung
4 disease.[4] The San Francisco Department of Public Health included people with weakened immune
5 systems in its definition of “vulnerable populations.”[5]

6 People regularly cycle in and out of jails and prisons, people who work in them leave and return
7 daily, and visitors regularly stream through. Viruses of all kinds have multiple entry points, and those
8 that enter tend to spread fast. Outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic
9 in 2009, many jails and prisons dealt with high numbers of cases.[6] Many people who are incarcerated
10 also have chronic conditions, like diabetes or HIV, which makes them vulnerable to severe forms of
11 COVID-19.

12 When coronavirus suddenly exploded in China’s prisons, there were reports of more than 500
13 cases spreading across five facilities in three provinces. In Iran, 54,000 inmates were temporarily
14 released back into the country amid virus fears.[7]

15 **Defendant is particularly vulnerable**

16 The defendant is vulnerable because he is over the age of 60/has a serious medical condition.
17 The defendant moves the court for a bail hearing and an order granting own-recognizance release or
18 release on appropriate financial or non-financial conditions. Money bail, as set, is beyond Defendant’s
19 ability to pay, operating as a no-bail detention order despite no court having made the findings required
20 under state and federal law for a valid detention order. Because the Defendant is among the vulnerable
21 population at higher risk of getting very sick from this illness he should not be detained before trial, this
22 court must order release on conditions narrowly tailored to the government’s interests in court
23 appearance and public safety.[8]

24 **Conclusion**

25 Defendant should be granted release because the Defendant is among the vulnerable population at higher
26 risk of getting very sick from this illness.

27 Dated: _____ Respectfully submitted,

28 _____
Name of Attorney
Attorney for Defendant

1 **Declaration of Counsel**

2 I declare:

3 I am a deputy public defender for San Francisco County and, in that capacity, I represent the defendant.
4 All information in the Statement of the Case and Facts of the attached motion is taken from my review
5 of discovery provided by the state.

6 I am informed and believe that:

7 Currently, San Francisco is experiencing a COVID-19 outbreak. An outbreak is when a large
8 number of people suddenly get sick. The Mayor of San Francisco declared a State of Emergency on
9 February 25, 2020.[9] Public health officials recommended community actions to reduce people’s risk
10 of being exposed to COVID-19.[10]

11 On March 6, 2020, the San Francisco Department of Public Health announced aggressive
12 recommendations for San Francisco to reduce the spread of COVID-19 Coronavirus, including social
13 distancing.

14 With confirmed cases that indicate community spread, the time is now to take action to protect
15 vulnerable populations and the community at large. According to the Centers for Disease Controls and
16 Prevention the people at higher risk of getting very sick from this illness include: (1) adults over the age
17 of 60 and (2) people who have serious chronic medical conditions like heart disease, diabetes and lung
18 disease.[11]

19 People regularly cycle in and out of jails and prisons, people who work in them leave and return
20 daily, and visitors regularly stream through. Viruses of all kinds have multiple entry points, and those
21 that enter tend to spread fast. Outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic
22 in 2009, many jails and prisons dealt with high numbers of cases.[12] Many people who are incarcerated
23 also have chronic conditions, like diabetes or HIV, which makes them vulnerable to severe forms of
24 COVID-19.

25 When coronavirus suddenly exploded in China’s prisons, there were reports of more than 500
26 cases spreading across five facilities in three provinces. In Iran, 54,000 inmates were temporarily
27 released back into the country amid virus fears.[13]

28 The defendant is vulnerable because he is over the age of 60/has a serious medical condition.

1 The foregoing is true and correct of my own knowledge, except on those matters stated on
2 information and belief, and as to those, I believe them to be true.

3
4 Executed on _____ at San Francisco, California.

5
6 _____
7 Name of Attorney
8 Deputy Public Defender
9 Attorney for Defendant

10 **Proof of Service**

11 I say:

12 I am over eighteen and not a party to this action. My business address is 555 Seventh Street, San
13 Francisco, California 94103.

14 I caused to be filed and served the attached document on

15 Assistant District Attorney
16 San Francisco District Attorney
17 850 Bryant Street, 3rd Floor
18 Francisco, CA 94103

19 I declare under penalty of perjury that the foregoing is true and correct. Executed on March , 2020 in
20 San Francisco, California.

21 **Footnotes**

22 [1] <https://www.sfchronicle.com/bayarea/article/SF-mayor-London-Breed-declares-state-of-emergency-15083811.php>

23 [2] <https://www.sfdph.org/dph/alerts/coronavirus.asp> , <https://abc7news.com/5990803/>

24 [3] San Francisco Department of Public Health Announces Aggressive Recommendations to Reduce the
25 Spread of Coronavirus (COVID-19), March 6, 2020, available at
26 <https://sfmayor.org/article/san-francisco-department-public-health-announces-aggressive-recommendations-reduce-spread>.

27 [4] <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

28 [5] See footnote 3.

[6] <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-s-oap>

1 [7] <https://apnews.com/af98b0a38aaabedbc059092db356697>

2 [8] Several judges in the Northern District of California have granted writs of habeas corpus on similar
3 grounds to Humphrey. See, e.g., Coleman v. Hennessy (N.D. Cal. Jan. 5, 2018) No. 17-CV-06503-EMC,
4 2018 WL 541091 at *1; Rodriguez-Ziese v. Hennessy (N.D. Cal. Dec. 6, 2017) No. 17-CV-06473-BLF,
5 2017 WL 6039705, at *3; Reem v. Hennessy (N.D. Cal. Nov. 29, 2017) No. 17-CV-06628-CRB, 2017
6 WL 6765247, at *1.

7 [9] <https://www.sfchronicle.com/bayarea/article/SF-mayor-London-Breed-declares-state-of-emergency-15083811.php>

8 [10] <https://www.sfdph.org/dph/alerts/coronavirus.asp> , <https://abc7news.com/5990803/>

9 [11] <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

10 [12] <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-soap>

11 [13] <https://apnews.com/af98b0a38aaabedbc059092db356697>