



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

MRM:CPK  
F. #2023R00468

*610 Federal Plaza  
Central Islip, New York 11722*

September 3, 2024

By ECF

Honorable Gary R. Brown  
United States District Court Judge  
United States District Court  
Eastern District of New York  
940 Federal Plaza  
Central Islip, New York 11722

Re: United States v. Daniel Colucci  
Criminal Docket No. 23-417 (GRB)

Dear Judge Brown:

The government submits this letter in opposition to defendant's letter motion of August 28, 2024 seeking to convert his nine month sentence of incarceration to home detention ("Def. Resent. Mot."). Specifically, defendant requests "that you resentence the Defendant to home incarceration." Def. Resent. Mot. at 1. The statutory basis for resentencing, Rule 35 of the Federal Rules of Criminal Procedure ("Correcting or Reducing a Sentence"), is inapplicable. In fact, no basis is advanced for this resentencing request other than the claim that defendant was recently diagnosed with atrial fibrillation. This is not a basis for resentencing. Atrial fibrillation is a common heart condition that impacts millions of people in the United States.<sup>1</sup> It is a

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<sup>1</sup> According to the American Heart Association, about five million Americans are currently living with Atrial Fibrillation and that number is expected to rise to 12 million by 2030. See American Heart Association, Living with Atrial Fibrillation, [https://www.heart.org/-/media/Files/Health-Topics/Atrial-Fibrillation/Living-With-AFib-Guide.pdf?sc\\_lang=en](https://www.heart.org/-/media/Files/Health-Topics/Atrial-Fibrillation/Living-With-AFib-Guide.pdf?sc_lang=en), last visited September 3, 2024.

treatable condition and prescription medicines, including blood thinners, are available to treat this condition. In addition, atrial fibrillation is treatable within the Bureau of Prisons' ("BOP") facilities.

Based upon information provided to the government, the defendant will not be designated to the MDC to serve his sentence. Specifically, the government has been advised by a representative of the BOP that the DSCC [Designation and Sentence Computation Center, the office within the BOP that does designations for all individuals in BOP custody] has been instructed not to designate to MDC Brooklyn, and if the person is still out when designated, they can self-surrender to their designated facility. Therefore, on September 17, 2024, defendant should surrender to his designated facility to serve his sentence.

Based on the foregoing, there is no basis for resentencing and defendant's motion for resentencing should be denied.

Respectfully submitted,

BREON PEACE  
United States Attorney

By: /s/ Charles P. Kelly  
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cc: Richard Kestenbaum, Esq. (via ECF)  
Meghan Wing, USPO