

Case No. 3:14-CV-1012
Gwin, J.

order an inmate's release" on compassionate grounds.^{6/} The statute says "[u]pon the recommendation of the director of rehabilitation and correction, accompanied by a certificate of the attending physician that an inmate is terminally ill, . . . the governor may order the inmate's release."^{7/} Thus, the governor, not the courts, can grant compassionate release for state prisoners. However, Petitioner Robinson may not be eligible under this statute because it excludes prisoners serving time for murder.^{8/}

Further, Petitioner Robinson is ineligible for relief under the comparable federal statute. Under 18 U.S.C. § 3582(c)(1) (A)(i), the Director of the Bureau of Prisons has discretion to file a motion for compassionate release with the district court.^{9/} Courts cannot *sua sponte* grant compassionate release.^{10/}

Additionally, "neither § 2241 nor § 2254 empower[s] this Court with habeas corpus jurisdiction to review any denial of a compassionate release request under Ohio Revised Code § 2967.05."^{11/} Since the language of the Ohio statute is permissive, not mandatory, it fails to create a liberty interest in compassionate release and any denial of a compassionate release request is therefore unreviewable.^{12/}

^{6/}[Fox, 2012 WL 3878143, at *2.](#)

^{7/}[Ohio Rev. Code § 2967.05\(B\).](#)

^{8/}*Id.* at §2967.05(C).

^{9/}[18 U.S.C. § 3582\(c\)\(1\) \(A\)\(I\); see also Engle v. United States, 26 F. App'x 394, 397 \(6th Cir. 2001\)](#) ("[D]istrict court[s] lack[] jurisdiction to sua sponte grant compassionate release. A district court may not modify a defendant's federal sentence based on the defendant's ill health, except upon a motion from the Director of the Bureau of Prisons.").

^{10/}*Id.*

^{11/}[Fox, 2012 WL 3878143, at *2.](#)

^{12/}*Id.*

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For the foregoing reasons, the Court **DENIES** Petitioner's motion for equitable relief.

IT IS SO ORDERED

Dated: July 3, 2014

s/ James S. Gwin _____

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE