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Insys Founder Tells 1st Circ. COVID-19 Risk Merits Bail

By [Emily Field](#)

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Law360 (March 20, 2020, 9:24 PM EDT) -- Insys Therapeutics Inc. founder John Kapoor on Thursday told the First Circuit that due to his advanced age, the coronavirus pandemic justifies his remaining free while he appeals his conviction in a racketeering scheme to bribe doctors to prescribe opioids.

Kapoor said that at 76, his age puts him at a greater risk of his health rapidly declining in custody, especially during the COVID-19 outbreak. The pandemic has spread to prisons and a number of lawmakers have [voiced worries](#) about whether the Bureau of Prisons is prepared for the coronavirus.

"Moreover, at age 76, incarceration is far more likely to harm Dr. Kapoor than he is to harm anyone in the community," Kapoor said. "The Justice Department has acknowledged that prison ages people faster than they would otherwise age."

Along with his age, the fact that the district court three times has found that he was not a flight risk nor a

danger to the community means that he meets the criteria for bail, Kapoor said.

Kapoor is facing a prison term range of 5½ years.

He also pointed to his charitable history, saying that before the racketeering case and Insys' bankruptcy eliminated most of his net worth he contributed more than \$128 million to charity, mostly to cancer foundations and scholarships.

Since their sentencing, Kapoor and other Insys executives have had their self-surrender dates delayed and on March 13, U.S. District Judge Allison D. Burroughs [granted their request](#) on procedural grounds to push their self-surrender dates out to May 19. The executives indicated that they might seek a further delay due to the coronavirus pandemic.

Prior to that, Judge Burroughs on March 5 [turned down the executives' request](#) to delay serving their prison sentences while they appeal their convictions. Kapoor appealed to the First Circuit, leading to Thursday's briefing.

In a separate ruling, Judge Burroughs found that Kapoor and two other executives should share responsibility for the nearly \$60 million in restitution owed to victims of the racketeering scheme to bribe doctors to prescribe opioids. The other executives will have their liability capped at \$5 million, the judge found.

The judge denied Kapoor's request to carve out a chunk of the restitution amount for Insys itself. The company entered into a \$225 million settlement with the government, pled guilty in federal court and filed for Chapter 11 protection last year.

Representatives for the government and Kapoor did not immediately respond to requests for comment on Friday.

Kapoor is represented by Kosta S. Stojilkovic, Beth A. Wilkinson and Chanakya A. Sethi of [Wilkinson Walsh LLP](#) and Martin G. Weinberg of Martin Weinberg Law PC.

The government is represented by Fred M. Wyshak Jr., K. Nathaniel Yeager and David G. Lazarus of the [U.S. Attorney's Office](#) for the District of Massachusetts.

The case is in U.S. v. Kapoor, case number 20-1325, in the [U.S. Court of Appeals for the First Circuit](#).

--Additional reporting by Brian Dowling. Editing by Michael Watanabe.

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