NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 21, 2022*
Decided December 23, 2022

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-1625

UNITED STATES,
Plaintiff-Appellee,

v.

SAMMY KNOX,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 89 CR 00908-25

Rebecca R. Pallmeyer,
Chief Judge.

O R D E R

In a motion under 18 U.S.C. § 3582(c)(2), Sammy Knox sought a reduction in his prison sentence, arguing that Amendment 782 to the Sentencing Guidelines applies to him retroactively and that his original criminal history category is erroneous. The district court denied relief, and Knox now appeals the denial of his motion to

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

reconsider. We agree with the district court that § 3852(c)(2) does not apply to Knox and affirm that ruling on the merits. And because Knox's remaining arguments amount to an unauthorized successive collateral attack on his sentence, we otherwise vacate the court's decision and remand with instructions to dismiss for lack of jurisdiction.

Knox and more than 20 codefendants were indicted for various crimes arising from their involvement in the El Rukn street gang. After a mistrial on account of prosecutorial misconduct, Knox was found guilty at a second trial, and he received a life sentence for racketeering and narcotics conspiracies. *United States v. Boyd*, 208 F.3d 638 (7th Cir. 2000) (affirming sentence on direct appeal); *United States v. Green*, 6 F. App'x 377 (7th Cir. 2001) (affirming on limited remand).

Knox continued to challenge his sentence. He filed an unsuccessful collateral attack under 28 U.S.C. § 2255, arguing that he received ineffective assistance of counsel. *Knox v. United States*, 400 F.3d 519 (7th Cir. 2005). He next filed a motion under 28 U.S.C. § 2244(b)(3) for authorization to file a successive § 2255 motion, which we dismissed. No. 07-3508 (7th Cir. Oct. 26, 2007), *reh'g denied* (Nov. 13, 2007). When he then moved in the district court for relief from judgment, Fed. R. Civ. P. 60(b), the court dismissed the effort as an unauthorized successive collateral attack. He next moved, purportedly under Rule 35(a) of the Federal Rules of Criminal Procedure, to "correct" his sentence. Again his arguments were construed as a successive collateral attack and dismissed for lack of jurisdiction; we affirmed. *United States v. Knox*, 427 F. App'x 521 (7th Cir. 2011).

Knox next moved under 18 U.S.C. § 3582(c)(2) for a sentence reduction in accord with Amendment 782 to the Sentencing Guidelines, which he argued retroactively reduced his guidelines ranges for both of his conspiracy convictions. Knox also argued that the sentencing court erred in placing him in criminal history category III instead of I. The district court denied the § 3582(c)(2) motion, determining that (1) Knox was ineligible for relief because the reduction in offense level did not change his overall sentencing range; and (2) Knox's challenge to his criminal history category could not be entertained without authorization from this court because it was, in effect, a successive attempt to vacate his conviction and sentence. The court therefore denied the § 3852(c)(2) motion in its entirety. Knox filed a notice of appeal, but he voluntarily dismissed that appeal under Rule 42(b) of the Federal Rules of Appellate Procedure.

Meanwhile, Knox had timely moved for reconsideration in the district court, repeating only the criminal-history argument from his § 3582(c) motion. Although the district court noted that the motion was another unauthorized successive collateral attack on his sentence, it went on to explain that the criminal-history argument lacked merit and denied the motion. Knox timely appealed. Thus, our review is limited to the

ruling on the motion to reconsider, *United States v. Knox*, No. 22-1625 (7th Cir. May 23, 2022) (order limiting review), which we review for abuse of discretion, *United States v. Edwards*, 34 F.4th 570, 584–85 (7th Cir. 2022).

To the extent that Knox argues on appeal that he was entitled to a reduced sentence under Amendment 782, he did not raise that argument in his motion to reconsider, which defines the scope of this appeal. *See Johnson v. Prentice*, 29 F.4th 895, 903 (7th Cir. 2022). Even if Knox had preserved the argument in the district court, we would have rejected it on the merits. The motion to reconsider the ruling was effectively a renewed motion under § 3582(c)(2), but only one such motion is allowed per retroactive amendment to the sentencing guidelines. *United States v. Beard*, 745 F.3d 288, 292 (7th Cir. 2014). And, as the district court correctly concluded, Knox was not eligible for relief because, no matter the effect on his offense level, Amendment 782 did not lower his overall sentencing range. *See* § 3582(c); *United States v. Taylor*, 778 F.3d 667, 672 (7th Cir. 2015).

Knox's remaining arguments—which include another challenge to his criminal history score—assert more purported errors in his original sentence, and, in light of the clear pattern of Knox's filings, they are best understood as another attempt at a successive post-conviction challenge. *See United States v. Carraway*, 478 F.3d 845, 848 (7th Cir. 2007). Only one such motion is permitted; others must be authorized in advance by the court of appeals. *Id.*; 28 U.S.C. § 2244(b)(3). Labelling a collateral attack as a different kind of motion does not allow Knox to avoid the jurisdictional limitation on successive habeas actions. *Curry v. United States*, 507 F.3d 603, 605 (7th Cir. 2007); *Melton v. United States*, 359 F.3d 855, 857 (7th Cir. 2004). Although we appreciate the district court's considerate approach in denying Knox's motion both on the merits and because it was an unauthorized successive collateral attack, the district court should have dismissed for lack of jurisdiction instead of denying the motion to reconsider on the merits. *See* 28 U.S.C. § 2244(b)(1), (2); *Curry*, 507 F.3d at 605–06; *United States v. Lloyd*, 398 F.3d 978, 980 (7th Cir. 2005).

Knox did not expressly seek one, so we construe his notice of appeal as a request for authorization to file a successive collateral attack under § 2255(h). *See Lloyd*, 398 F.3d at 981. Because he has not shown that he satisfies the criteria for a successive challenge, *see* § 2244(b)(2), the request is denied.

Knox has now challenged his sentence through every possible post-conviction vehicle. We therefore conclude by warning him that he risks monetary sanctions and a filing bar under *Alexander v. United States*, 121 F.3d 312 (7th Cir. 1997) if he files another motion, no matter how labeled, challenging the validity of his conviction or sentence.

We VACATE the decision and REMAND with instructions to dismiss for lack of jurisdiction.