NONPRECEDENTIAL DISPOSITION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 August 16, 2023*
Decided August 16, 2023

Before

DIANE P. WOOD, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2604

UNITED STATES OF AMERICA, *Plaintiff-Appellee*, *v*. JOSE VASQUEZ-SILVA, *Defendant-Appellant*.	Appeal from the United States District Court for the Southern District of Indiana, Terre Haute Division. No. 2:10-cr-00026-JMS-CMM Jane Magnus-Stinson, *Judge*.

O R D E R

Jose Vasquez-Silva, a federal prisoner, appeals the district court's denial of compassionate release under 18 U.S.C. § 3582(c)(1)(A). He argues that changes in a sentencing statute and his rehabilitation efforts constitute extraordinary and compelling reasons for early release. Because our precedents foreclose those arguments, we affirm.

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* 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).

Vasquez-Silva pleaded guilty in 2012 to conspiring to distribute methamphetamine and marijuana, 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846, and conspiring to launder money, 18 U.S.C. § 1956(h). Under the then-effective version of § 841(b)(1)(A)(viii), the methamphetamine quantity (at least 500 grams of a mixture or substance containing methamphetamine) and a prior drug conviction exposed Vasquez-Silva to a minimum of 240 months' imprisonment. The district court imposed 300 months, plus 10 years of supervised release.

Later, Congress passed the First Step Act of 2018, Pub. L. No. 115–391, 132 Stat. 5194. Among other things, the Act reduced the minimum sentence under § 841(b) for someone with Vasquez-Silva's drug quantity and prior conviction from 240 months' imprisonment to 180 months. But Congress did not make the change retroactive.

Despite that lack of retroactivity, Vasquez-Silva moved under § 3582(c)(1)(A) to reduce his sentence on the ground that the Act is an extraordinary and compelling reason to revisit old judgments. He also emphasized his rehabilitation, as evidenced by his taking classes and avoiding major disciplinary infractions in prison.

But the district court denied the motion. First, the court explained, *United States v. Thacker*, 4 F.4th 569, 576 (7th Cir. 2021), holds that non-retroactive changes in sentencing law cannot be considered—"whether alone or in combination with other factors"—as part of an extraordinary and compelling reason for release under § 3582(c)(1)(A)(i). Second, 28 U.S.C. § 994(t) specifies that "rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason" for compassionate release. Given *Thacker*'s prohibition on considering non-retroactive changes in sentencing law, Vasquez-Silva's rehabilitation argument was not supported by any other factor and, under *United States v. Peoples*, 41 F.4th 837, 842 (7th Cir. 2022), could not count as an extraordinary and compelling reason.

On appeal, Vasquez-Silva asks us to overrule *Thacker* and adopt the Fourth Circuit's contrary reasoning in *United States v. McCoy*, 981 F.3d 271 (4th Cir. 2020), which permits judges to consider dramatic changes in sentencing law even if Congress has not made them retroactive. But we considered and respectfully disagreed with *McCoy* in our *Thacker* opinion. *Thacker*, 4 F.4th at 575–76. In later decisions, we denied similar requests to overrule *Thacker*. *See, e.g., United States v. King*, 40 F.4th 594, 595–96 (7th Cir. 2022); *Peoples*, 41 F.4th at 841–42. We will not overturn our precedent without an especially compelling reason, *Sotelo v. United States*, 922 F.3d 848, 851–52 (7th Cir.

2019), and Vasquez-Silva has not identified a new development or other ground strong enough to warrant our switching sides in this entrenched circuit conflict. *Compare, e.g., United States v. Andrews*, 12 F.4th 255, 261 (3d Cir. 2021) (agreeing with *Thacker*), *and United States v. Crandall*, 25 F.4th 582, 585 (8th Cir. 2022) (same), *with United States v. Chen*, 48 F.4th 1092, 1098 (9th Cir. 2022) (agreeing with *McCoy*), *and United States v. Ruvalcaba*, 26 F.4th 14, 21 (1st Cir. 2022) (same). *See also Buchmeier v. United States*, 581 F.3d 561, 566 (7th Cir. 2009) (en banc) (advising against "one circuit's restless movement from one side of a conflict to another"). *Thacker* continues to govern, and it forecloses Vasquez-Silva's reliance on non-retroactive changes in sentencing law.

As for rehabilitation, the district court was correct. Rehabilitation alone is not a reason for release. 28 U.S.C. § 994(t). And *Peoples*, 41 F.4th at 841–42, makes clear that § 994(t) cannot be avoided by pointing to non-retroactive changes in sentencing law.

Finally, Vasquez-Silva faults the district court's denial order for not addressing the sentencing factors in 18 U.S.C. § 3553(a). But our precedents do not require district judges to consider or cite those factors unless the defendant has independently met the threshold requirement of establishing an extraordinary and compelling reason for release. *See Thacker*, 4 F.4th at 573; *United States v. Ugbah*, 4 F.4th 595, 598 (7th Cir. 2021).

AFFIRMED