

NONPRECEDENTIAL DISPOSITION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 October 24, 2023*

Decided October 25, 2023

Before

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1651

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JARMARCO O. MOORE,
Defendant-Appellant.

Appeal from the United States District
Court for the Central District of Illinois.

No. 21-10023

James E. Shadid,
Judge.

ORDER

Jarmarco Moore, a federal prisoner, filed two motions for compassionate release. The district court denied both, concluding that Moore had not offered extraordinary and compelling reasons for early release and, alternatively, that release was not justified under the sentencing factors in 18 U.S.C. § 3553(a). We affirm.

* 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).

Moore pleaded guilty in April 2022 to being a felon in possession of a firearm. *See* 18 U.S.C. § 922(g). The district court, in sentencing him to 110 months' imprisonment and 3 years' supervised release, found that he had unlawfully possessed ten firearms and enlisted his teenage daughter to hide two of them (plus some cocaine) from investigators. The court also stressed Moore's past crimes involving burglary and drugs.

Ten months later, Moore submitted his first motion for compassionate release. *See* 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13. In it, he cited several health issues—obesity, high cholesterol and blood pressure, asthma, gastrointestinal discomfort, and poor circulation—and asserted a grave risk of serious infection from COVID-19. (He did not address whether he had received vaccines.) He also explained that his girlfriend, who was his children's caregiver when he was sentenced, had herself been imprisoned in the meantime, causing some children to live with grandparents who struggled to furnish care. While that motion was pending, Moore filed a second one raising a variety of constitutional and statutory-interpretation challenges to his conviction and sentence.

In a single order, the sentencing judge denied both motions, for two independent reasons. First, Moore had not identified extraordinary and compelling circumstances to warrant early release. Second, and in any event, Moore's criminal history, his handling of several guns as a felon, and his decision to involve family members (including a minor) in his crimes meant early release would wrongly "deprecate the seriousness of the offense." *See* 18 U.S.C. § 3553(a) (outlining sentencing factors); *United States v. Saunders*, 986 F.3d 1076, 1078 (7th Cir. 2021) (permitting court to deny release under § 3553(a) factors even if circumstances are otherwise extraordinary and compelling).

On appeal, Moore references his medical conditions and explains that a recent COVID-19 infection made him "sicker for longer than the normal timeframe." He adds that he unsuccessfully sought vaccines in prison, although he omitted that detail in the district court. He insists that his children need his care, and that the district court underestimated his potential by failing to confirm his employment history and business dealings. And he reargues the lawfulness of his original conviction and sentence.

But even if Moore's medical conditions and caregiver obligations could, on a fuller record, count as extraordinary and compelling circumstances, his appellate briefs do not undermine the district court's alternative basis for denying his motions: the § 3553(a) factors, especially his criminal history and the seriousness of his conduct. As a rule, the § 3553(a) factors can provide "an independent basis" for denying early release. *United States v. Williams*, 65 F.4th 343, 349 (7th Cir. 2023). We review the district court's

application of the § 3553(a) factors for an abuse of discretion. *United States v. Kurzynowski*, 17 F.4th 756, 759 (7th Cir. 2021). Given Moore’s criminal history (burglary and drug sales) and the seriousness of this offense (involving ten guns and the use of his teenage daughter to conceal contraband), we see no abuse of discretion here. To be sure, Moore now contests the basis for the district court’s findings and rulings at the original sentencing, but in a compassionate-release proceeding, a district court need not reopen those matters. See *United States v. Brock*, 39 F.4th 462, 465 (7th Cir. 2022). One good reason suffices to deny compassionate release, *United States v. Ugbah*, 4 F.4th 595, 598 (7th Cir. 2021), and the district court had one here.

As for Moore’s challenges to his conviction and sentence, our precedents have held that these kinds of claims must be raised in a direct appeal or collateral attack under 28 U.S.C. § 2255, if at all—not in a motion for compassionate release. *Williams*, 65 F.4th at 347; *United States v. Von Vader*, 58 F.4th 369, 371 (7th Cir. 2023). Indeed, the district court has denied Moore’s § 2255 motion, and his request for a certificate of appealability is pending in No. 23-2372. We express no view on that request.

AFFIRMED