

**NONPRECEDENTIAL DISPOSITION**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 February 26, 2024\*

Decided March 1, 2024

**Before**

DIANE S. SYKES, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 23-2919

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-cr-10023

James E. Shadid,  
*Judge.*

**ORDER**

Jarmarco Moore, a federal prisoner, appeals from the district judge's denial of his third motion for compassionate release. Because he raises no extraordinary and compelling reason for early release, 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).

Moore pleaded guilty to possessing a firearm as a felon, *see* 18 U.S.C. § 922(g), and in 2022 was sentenced to 110 months in prison and 3 years of supervised release. He filed a direct appeal but soon dismissed it voluntarily. He also filed two motions for compassionate release, which the judge denied in a single order. We affirmed. *United States v. Moore*, No. 23-1651, 2023 WL 7018292 (7th Cir. Oct. 25, 2023).

In the meantime, Moore filed a third motion for compassionate release, the one at issue here. *See* 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13. He argued that his § 922(g) conviction violates his Second Amendment rights under *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), a decision addressing New York's gun-licensing regime. He also claimed that the sentencing record was too thin to support the attribution of ten guns to him. Finally, he highlighted his rehabilitation efforts in prison, his plans to support himself if released early, and the nonviolent character of his past crimes. The judge denied the motion, reasoning that Moore could not use compassionate release as a vehicle to challenge the validity of his original conviction and sentence, and that Moore's remaining arguments about rehabilitation and nonviolence were not extraordinary and compelling grounds for early release.

On appeal Moore renews his contentions. But as the judge recognized, we have held that a motion for compassionate release cannot be used as a substitute for a direct appeal or collateral attack; so, with one exception that does not apply to Moore, claims about the validity of the original conviction or sentence cannot count toward a finding of extraordinary and compelling circumstances. *United States v. Brock*, 39 F.4th 462, 465 (7th Cir. 2022); *United States v. Williams*, 65 F.4th 343, 347–49 (7th Cir. 2023). The exception arises under the Sentencing Commission's 2023 amendments to the Guidelines, which permits some defendants to seek early release based on intervening changes in constitutional or criminal law. U.S.S.G. § 1B1.13(b)(6). But the amendments limit eligibility to defendants who (among other things) have served at least ten years of their sentence, which Moore has not done.

Moore's remaining arguments do not present extraordinary and compelling reasons for compassionate release. His nonviolent criminal history was a topic to consider at his 2022 sentencing or in a direct appeal, not a factor that can itself trigger eligibility for early release. *See Brock*, 39 F.4th at 465. And although Moore's release plan might bear on the discretionary decision whether to grant relief if he had identified some extraordinary and compelling reason that made him eligible, no authority known to us suggests that a release plan can itself trigger eligibility. Meanwhile, Moore's efforts to rehabilitate himself by taking classes while incarcerated are "common rather

than extraordinary.” *United States v. Vaughn*, 62 F.4th 1071, 1072 (7th Cir. 2023). Indeed, rehabilitation alone could not present an extraordinary and compelling reason. 28 U.S.C. § 994(t); *United States v. Peoples*, 41 F.4th 837, 841 (7th Cir. 2022). The judge did not abuse his discretion in concluding that Moore’s criminal history, evidence of rehabilitation, and release plan—even in combination—are not extraordinary and compelling grounds for early release. *See Vaughn*, 62 F.4th at 1073 (holding that the discretionary weighing of combined circumstances “resides principally in the district courts,” subject only to deferential appellate review).

AFFIRMED