

NONPRECEDENTIAL DISPOSITION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 April 28, 2023*

Decided April 28, 2023

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

Nos. 22-2319 & 22-2588

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

BRANDON L. TAYLOR,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

No. 3:07-CR-111(2) RLM-MGG

Robert L. Miller, Jr.,
Judge.

ORDER

Brandon Taylor, a federal inmate, challenges the denial of his motions for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). Because Taylor did not adequately prove he has an extraordinary and compelling reason for release, we affirm.

* We have agreed to decide the appeals 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).

In 2008, a jury convicted Taylor of firearm and ammunition charges, *see* 18 U.S.C. § 922(g)(1), (3), and the court sentenced him above the Guidelines to 20 years' imprisonment. Even though the government dismissed related carjacking charges against Taylor, the court found by a preponderance of the evidence that he had participated in the carjacking and used that fact to enhance his sentence.

On direct appeal, Taylor argued that the court incorrectly considered his conduct underlying the dismissed carjacking counts. We affirmed. *United States v. Taylor*, 314 F. App'x 872 (7th Cir. 2009).

Taylor later moved to vacate his sentence under 28 U.S.C. § 2255. The district court denied the motion.

In early 2022, Taylor filed the first of three motions for compassionate release based on alleged sentencing errors, his rehabilitation, and risks from COVID-19 combined with his health conditions (H. Pylori, hypertension, and high cholesterol). The court denied the motion, concluding that Taylor had not established an extraordinary and compelling reason for release. The court explained that his health conditions seemed well treated in prison; he had refused the COVID-19 vaccine and did not explain why he would not benefit from it; and the sentencing factors under 18 U.S.C. § 3553(a) counseled against release. Taylor did not appeal.

In mid-2022, Taylor moved for a sentence reduction, arguing that the sentencing court's reliance on dismissed conduct violated *Alleyne v. United States*, 570 U.S. 99 (2013). The district court, construing the motion as a request for compassionate release, denied the motion on the ground that alleged legal errors in sentencing are not extraordinary and compelling circumstances.

A month later, Taylor filed his third request for compassionate release, raising arguments similar to those he presented in his first motion. He submitted additional information about his vaccine status and health, including a recent diagnosis of congestive heart failure. The court again denied relief. The court acknowledged Taylor's worsening health but did not think that his new conditions were extraordinary and compelling. Taylor had not shown, the court pointed out, that his conditions were so severe that prison staff could not care for him. And even if he had established extraordinary and compelling reasons, his offense and post-conviction violent conduct would preclude early release in light of the § 3553(a) sentencing factors.

Taylor filed separate timely notices of appeal for the denial of the last two motions. We consolidated both appeals for disposition.

On appeal, Taylor maintains that his new health conditions, particularly his coronary artery disease, justify a reduced sentence. But Taylor has the burden of proving an extraordinary and compelling reason, *see United States v. Barbee*, 25 F.4th 531, 532 (7th Cir. 2022), and he offered insufficient evidence that he cannot receive adequate medical care in prison.

Taylor also revives his *Alleyne*-based argument that the sentencing court wrongly took into account dismissed conduct that had not been submitted to the jury. But we rejected a similar contention on direct appeal, *Taylor*, 314 F. App'x at 875–76, and repeatedly have held that a putative legal defect at sentencing is not an extraordinary and compelling reason for release. *See, e.g., United States v. Williams*, 62 F.4th 391, 392 (7th Cir. 2023); *United States v. Thacker*, 4 F.4th 569, 574 (7th Cir. 2021). In any event, the district court's § 3553(a) discussion provides an independent basis for affirmance. The court highlighted Taylor's offense and post-trial conduct (including assault and threats against law-enforcement officers assigned to transport him), and just one good reason suffices to deny a motion for compassionate release. *See United States v. Ugbah*, 4 F.4th 595, 598 (7th Cir. 2021).

We have considered Taylor's other arguments, but none has merit.

AFFIRMED