

**NONPRECEDENTIAL DISPOSITION**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 3, 2023\*

Decided February 3, 2023

*Before*

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2388

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

TYRAN FLOYD,  
*Defendant-Appellant.*

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

No. 12 CR 50012

Iain D. Johnston,  
*Judge.*

**ORDER**

Tyran Floyd, a federal prisoner, appeals the denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). He unsuccessfully asked his warden to move for his release based on his rehabilitation and then sought relief in the

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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).

district court for new reasons. Because Floyd did not exhaust his administrative remedies with respect to these new reasons, we affirm.

Floyd was arrested after multiple arranged drug and firearm transactions with a confidential informant. He was charged with possession with intent to distribute heroin, cocaine, and marijuana, 21 U.S.C. § 841(a)(1); possession with intent to distribute cocaine base, *id.*; possession of a weapon as a felon, 18 U.S.C. § 922(g)(1); and possession of a firearm in furtherance of a drug-trafficking crime, *id.* § 924(c)(1)(A). The government also filed notice of its intent to seek an enhanced sentence under 21 U.S.C. § 851(a) based on previous drug felonies. Floyd pleaded guilty to possession with intent to distribute cocaine base, and in the process, he agreed that he qualified for a career-offender enhancement and was subject to a range of 188 to 235 months' imprisonment under the Sentencing Guidelines. The district court imposed a 188-month sentence, and the government dismissed the remaining counts.

After serving over half of his prison sentence, Floyd wrote his warden requesting compassionate release based on how much time he had served and his rehabilitative efforts while imprisoned. The warden determined that those reasons were not extraordinary and compelling and declined to move for a sentence modification. Floyd then filed his own motion in district court, now arguing that his high blood pressure increased his risk of complications from COVID-19 and that his sentencing range would be shorter for various reasons if he were convicted today. Appointed counsel amplified the latter reason, primarily arguing that Floyd would no longer be subject to the career-offender enhancement. *See United States v. Ruth*, 966 F.3d 642 (7th Cir. 2020).

The government opposed the motion because Floyd had not presented his current grounds for relief to the warden and therefore had not exhausted administrative remedies. In the alternative, the government argued, neither post-sentencing changes in the law nor the alleged health risk warranted an early release.

The district court denied Floyd's motion without resolving the exhaustion defense. The court explained that Floyd failed to show that changes in sentencing laws applied to him and, regardless, under this court's precedent, such changes are not extraordinary and compelling reasons for compassionate release. Further, Floyd lacked evidence that he is at an elevated risk of becoming seriously ill from COVID-19 because of an underlying medical condition or prison conditions. Finally, the court analyzed the sentencing factors under 18 U.S.C. § 3553(a) and determined that the 188-month sentence remained appropriate. While acknowledging Floyd's coursework in prison, his

remorse, and the support of friends and family, it concluded that “the large quantities of multiple types of drugs,” the involvement of a firearm, and a “significant” criminal history weighed in favor of Floyd completing his sentence.

Floyd appeals, primarily arguing that the district court erred by rejecting intervening changes in sentencing law as an extraordinary and compelling reason for his compassionate release and by failing to fully consider the § 3553(a) factors. Without suggesting any flaw in the court’s reasoning, we need not dwell on these arguments because Floyd did not exhaust his remedies as required by 18 U.S.C. § 3582(c)(1)(A).

Floyd asked his warden to move for his release because he had completed over 50% of his prison sentence and demonstrated substantial rehabilitation through personal-development courses. But in his motion and on appeal, Floyd cites post-sentencing changes and his health risks from the COVID-19 pandemic. Because Floyd never asked the Bureau of Prisons to move for his release on these grounds, he did not properly exhaust his remedies. *United States v. Williams*, 987 F.3d 700, 703–04 (7th Cir. 2021). Affirming on that ground is appropriate because the government argued the issue in the district court and on appeal (albeit in footnotes), and the facts about exhaustion are not in dispute. *United States v. Sandford*, 986 F.3d 779, 782 (7th Cir. 2021).

AFFIRMED