

NONPRECEDENTIAL DISPOSITION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 14, 2023*
Decided February 17, 2023

Before

DIANE P. WOOD, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 22-2452

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

SEAN WINN,
Defendant-Appellant.

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

No. 06 CR 451-7

Matthew F. Kennelly,
Judge.

ORDER

Sean Winn moved to reduce his prison sentence on two grounds. First, he argued that, under 18 U.S.C. § 3582(c)(2), Amendment 782 to the Sentencing Guidelines applies to him retroactively; second, he maintained that he qualifies for compassionate release under § 3582(c)(1). The district court denied the motion. It correctly ruled that Winn's below-guidelines sentence barred a sentence reduction, and it permissibly ruled that

* 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).

Winn had not offered an extraordinary and compelling reason for compassionate release. We thus affirm.

Winn pleaded guilty, pursuant to an agreement, to conspiring to distribute heroin in 2009. 21 U.S.C. §§ 841(a)(1), 846. In exchange for Winn's ongoing cooperation, the government initially agreed to move for a below-guidelines sentence. But before sentencing, while Winn was released on bond, he was taken into state custody on charges of armed robberies and carjacking. At his federal sentencing while those state charges were pending, the government argued that this conduct amounted to a failure to cooperate in breach of the plea agreement, and so it refused to move for a below-guidelines sentence. The district court then ruled that Winn had a criminal history category of II and a total offense level of 41, yielding a guidelines range of 360 months to life. It imposed a below-guidelines sentence of 169 months' imprisonment. In explaining this sentence, the court addressed Winn's cooperation, difficult upbringing, and guilty plea, but it said that it did not "sentence him for the" pending state charges.

Winn later pleaded guilty to the state charges, and the state court sentenced him to 26 years' imprisonment for the armed robberies and carjacking. The state court further ordered that its sentence should run consecutive to the federal sentence. Winn completed his state sentence and was transferred to federal prison in 2021.

Less than one year into his federal term of imprisonment, Winn moved to reduce his sentence. The district court rejected his arguments that a retroactive Amendment 782 to the Guidelines warranted a reduced sentence, and that based on his medical conditions, efforts at rehabilitation, and sentence length, he deserved compassionate release.

On appeal, Winn maintains that Amendment 782 requires a reduced sentence, but he is wrong. A court cannot reduce a prison term under § 3582(c)(2) to a length shorter than the minimum of the revised guidelines range. U.S.S.G. § 1B1.10(b)(2)(A); see *Dillon v. United States*, 560 U.S. 817, 826 (2010). Amendment 782 would result in a revised sentencing range of 292 to 365 months. Because Winn's current sentence (169 months) is already below the minimum of the revised sentencing range, he is ineligible for a sentence reduction under § 3582(c)(2). (An exception applies if the government moves for a lower sentence to reflect a defendant's substantial assistance, see U.S.S.G. § 1B1.10(b)(2)(B), but the government never filed such a motion.)

Winn next argues that he deserves compassionate release, but the district court did not abuse its discretion in ruling that he presented no “extraordinary and compelling” reason for a reduction, as he must under § 3582(c)(1). See *United States v. Saunders*, 986 F.3d 1076, 1078 (7th Cir. 2021). He contends that, based on his time served in state prison, his federal sentence is extraordinarily long. But Winn may not use a motion for compassionate release to argue that the original sentencing decision was wrong. See *United States v. Martin*, 21 F.4th 944, 946 (7th Cir. 2021). Winn also argues that he suffers from medical conditions—among them asthma, high blood pressure, and diabetes—that make him more susceptible to a severe COVID-19 infection. But he provided no evidence that these conditions prevented vaccines from effectively protecting him from the virus. See *United States v. Broadfield*, 5 F.4th 801, 803 (7th Cir. 2021); *United States v. Barbee*, 25 F.4th 531, 533 (7th Cir. 2022). He next cites his efforts at rehabilitation, but rehabilitation alone is not an extraordinary and compelling reason. *United States v. Peoples*, 41 F.4th 837, 842 (7th Cir. 2022); 28 U.S.C. § 994(t). Last, Winn argues that the cumulative effect of these circumstances is extraordinary and compelling, but the district court did not abuse its discretion when it determined that Winn’s reasons, even when taken together, were neither extraordinary nor compelling.

Finally, Winn argues that *Concepcion v. United States* broadened what counts as an extraordinary and compelling reason for release to include his circumstances. 142 S. Ct. 2389 (2022). But we have repeatedly rejected the argument that *Concepcion* bears on the threshold question whether a prisoner has established an extraordinary and compelling reason for early release. See, e.g., *Peoples*, 41 F.4th at 842. We therefore AFFIRM the decisions of the district court.