

**NONPRECEDENTIAL DISPOSITION**  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 March 28, 2023\*

Decided March 29, 2023

**Before**

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2464

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

JAMES LING,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Southern District of Indiana,  
Evansville Division.

No. 3:15-cr-05-RLY-CMM-02

Richard L. Young,  
*Judge.*

**ORDER**

James Ling, a federal prisoner, appeals the denial of his second motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). Because the district judge

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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).

properly ruled that Ling did not offer extraordinary and compelling reasons for release, we affirm.

In 2020, four years into his 24-year sentence for drug possession, *see* 21 U.S.C. § 841(a)(1), Ling moved for compassionate release, *see* 18 U.S.C. § 3582(c)(1)(A)(i), asserting a high risk of severe illness from COVID-19. The judge denied the motion. He ruled that because Ling had recovered from COVID-19 in prison and received the vaccine, he did not provide an extraordinary and compelling reason for release. Ling did not appeal.

The following year, Ling sought compassionate release a second time, raising three different arguments. First, he noted that he was sentenced before the passage of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, which had since lowered the mandatory-minimum sentence for his offense from 20 to 15 years. *See* First Step Act § 401(a)(2)(i). The Act's reduction of the mandatory-minimum sentence was prospective only, *see id.* § 401(c), but Ling argued that the change in law nevertheless supplied an extraordinary and compelling reason to reduce his sentence. The judge disagreed. He explained that Ling's argument was foreclosed by *United States v. Thacker*, 4 F.4th 569, 574–75 (7th Cir. 2021), in which we held that a non-retroactive change to a mandatory minimum was not an extraordinary and compelling reason for compassionate release. *See also United States v. Martin*, 21 F.4th 944, 946 (7th Cir. 2021).

Second, Ling argued generally that his 24-year term of imprisonment was unjustly long. The judge ruled that our precedent foreclosed this argument, too. He explained that the compassionate-release statute “does not treat a long but lawful sentence as itself an extraordinary or compelling reason for a lower sentence.” *United States v. Ugbah*, 4 F.4th 595, 597 (7th Cir. 2021); *see Martin*, 21 F.4th at 946.

Finally, Ling argued that his rehabilitation while in prison justified his release. The judge disagreed, noting that, although Ling had made admirable strides in prison, rehabilitation alone is not a basis for compassionate release. *United States v. Peoples*, 41 F.4th 837, 842 (7th Cir. 2022). Nor, the judge continued, did his rehabilitation in conjunction with his two other factors justify early release. Having found no reason to reduce Ling's sentence under 18 U.S.C. § 3582(c), the judge denied the motion.

Ling presents two arguments in his appeal of that decision, which we review for abuse of discretion. *United States v. Saunders*, 986 F.3d 1076, 1078 (7th Cir. 2021). First, Ling contends that *Thacker* was “explicitly overruled” in *Concepcion v. United States*, 142 S. Ct. 2389 (2022). He reads *Concepcion* as allowing district judges to consider non-

retroactive, intervening changes of law when deciding compassionate-release motions. But we have explained that “nothing in *Concepcion* calls into question our decision in *Thacker*,” *Peoples*, 41 F.4th at 842, because *Concepcion* does not bear on *Thacker*’s “threshold question whether any given prisoner has established an ‘extraordinary and compelling’ reason for release,” *United States v. King*, 40 F.4th 594, 596 (7th Cir. 2022). In answering that threshold question, “judges must not rely on non-retroactive statutory changes” to the law. *Id.* at 595.

Ling’s only other contention on appeal is that he presented three grounds that, when considered together, meet the threshold for relief. But the judge considered Ling’s reasons cumulatively, just as we have encouraged district judges to do. *See United States v. Vaughn*, No. 22-2427, 2023 WL 2522728, at \*2 (7th Cir. Mar. 15, 2023). And it was not an abuse of discretion for the judge to conclude that the three reasons, each of which individually contributed nothing toward a showing of extraordinary or compelling circumstances, also fell short in combination.

AFFIRMED