

**NONPRECEDENTIAL DISPOSITION**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 April 3, 2023

**Before**

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2984

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

TAIWO K. ONAMUTI,  
*Defendant-Appellant.*

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

No. 1:16-cr-00093-JRS-MJD-01

James R. Sweeney II,  
*Judge.*

**ORDER**

Taiwo Onamuti, a federal prisoner, appeals the denial of his compassionate-release motion under 18 U.S.C. § 3582(c)(1)(A)(i). In the motion, he argued that his underlying sentence for identity theft exceeded what he believed to be the statutory

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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).

maximum and thus constituted an extraordinary and compelling reason for release. The district judge denied the motion, concluding that alleged sentencing errors are not an extraordinary and compelling reason for compassionate release. We affirm.

Onamuti's case arises from his role in a complex fraud scheme in which he and coconspirators stole the personal identifying information of more than 1,000 individuals. The group used this information to file false tax returns seeking maximum refunds and then laundered the proceeds.

Onamuti pleaded guilty to one count of filing false claims and one count of identity theft with the intent to commit an unlawful activity. *See* 18 U.S.C. §§ 287, 1028(a)(7). (He also pleaded guilty to one count of aggravated identity theft, *see id.* § 1028A, but that conviction was vacated on collateral attack.) The district judge sentenced Onamuti to five years in prison on the false-claims count and fifteen years—the statutory maximum—on the identity-theft count, to be served concurrently.

Five years into his prison term, Onamuti moved (in two identically worded filings) for compassionate release. He argued that extraordinary and compelling reasons warranted release because his fifteen-year sentence for his identity-theft conviction exceeded the five-year statutory maximum listed in 18 U.S.C. § 1028(b)(2)(B). Some context: Section 1028 imposes different statutory maximums depending on the extent of the identity theft. Section 1028(b)(2)(B), which addresses run-of-the-mill § 1028(a)(7) violations, imposes only a five-year maximum. Section 1028(b)(1)(D), on the other hand, provides for a fifteen-year maximum sentence if the person convicted under § 1028(a)(7) uses, possesses, or transfers a means of identification to commit an offense, and then obtains anything of value over \$1,000 from that offense in a one-year period. According to Onamuti, the fifteen-year maximum set forth in § 1028(b)(1)(D) was incorrectly applied to him because, in his view, that provision concerned the transferring of a means of identification, and he pleaded guilty only to possessing and using the means of identification.

The district judge denied Onamuti's motions, concluding that Onamuti's argument was foreclosed by circuit precedent. Citing a string of recent cases, the judge highlighted our repeated pronouncements that a charge of error in the original sentencing is not itself an extraordinary and compelling reason for compassionate release.

On appeal, Onamuti asserts that the district judge wrongly denied his motion without requiring a response from the government. But no such requirement appears in

the compassionate-release statute. *See* 18 U.S.C. § 3582(c)(1)(A)(i). To the contrary, if the defendant does not meet his burden of establishing “extraordinary and compelling circumstances” for release, the judge may deny the motion regardless of any government response. *See Ward v. United States*, 11 F.4th 354, 361 (5th Cir. 2021).

Onamuti next challenges the district judge’s characterization of his argument as resting on a sentencing error. He argues that his sentence is unlawful because it violates congressional intent that defendants like him not be sentenced beyond the statutory maximum. But the difference is semantic. His essential argument is that the district judge misinterpreted the statutory maximum, and we have repeatedly stated that defendants may not use the compassionate-release statute to challenge supposed errors in sentencing. *United States v. King*, 40 F.4th 594, 595 (7th Cir. 2022); *United States v. Brock*, 39 F.4th 462, 466 (7th Cir. 2022); *United States v. Martin*, 21 F.4th 944, 946 (7th Cir. 2021); *United States v. Thacker*, 4 F.4th 569, 574 (7th Cir. 2021).

AFFIRMED