

**NONPRECEDENTIAL DISPOSITION**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 August 16, 2023\*

Decided August 23, 2023

**Before**

DIANE P. WOOD, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-3127

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

CHARLES SKAGGS, JR.,  
*Defendant-Appellant.*

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

No. 1:17-cr-00168-SEB-MJD-01

Sarah Evans Barker,  
*Judge.*

**ORDER**

Charles Skaggs is serving a life sentence for producing and possessing child pornography. He moved for compassionate release based on the war in Ukraine and the supposed unlawfulness of his convictions. The district court did not regard these reasons as extraordinary and compelling and denied the motion. We affirm.

---

\* We have agreed to decide the case without oral argument because the issues have been authoritatively decided. FED. R. APP. P. 34(a)(2)(B).

Beginning in late 2016, police conducted multiple searches of Skaggs's luggage and residence and found digital videos of his 14-year-old daughter using the bathroom and showering. Skaggs was charged with and convicted of multiple crimes related to producing child pornography and attempting to hide it. See 18 U.S.C. §§ 1519, 2251(a), 3559(e), 2252(a)(4)(B), 2252A(a)(5)(B). The district court sentenced him to life in prison. Skaggs appealed, and we affirmed. See *United States v. Skaggs*, 25 F.4th 494 (7th Cir. 2022), *cert. denied*, 143 S. Ct. 604 (2023).

Several months after we affirmed his conviction and sentence, Skaggs moved for compassionate release. See 18 U.S.C. § 3582(c)(1)(A)(i). He argued that the war in Ukraine was an “extraordinary and compelling” reason for a sentence reduction because he had prior Ukrainian military experience and needed to return home to help defend the country. As another justification, he contended that his convictions for sexual exploitation of a child were unlawful because the videos he made of his daughter did not meet the definition of child pornography under 18 U.S.C. § 2251. He also argued that the sentencing factors under 18 U.S.C. § 3553(a) favored early release.

The district court denied the motion. The court explained that the war in Ukraine was not extraordinary and compelling for Skaggs; he had not presented evidence that the invasion, for instance, incapacitated his fiancée or left his minor children without a caregiver. Regarding the supposedly unlawful convictions, the court cited *United States v. Martin*, 21 F.4th 944, 946 (7th Cir. 2021), and concluded that the compassionate-release statute is not a vehicle to challenge errors in an underlying conviction and sentence. The court also determined that the § 3553(a) factors, including the seriousness of the offense and need to afford adequate deterrence, counseled against release because Skaggs committed “incredibly serious crimes” by creating multiple pornographic videos of his minor daughter.

On appeal, Skaggs first takes issue with the district court's determination that the war in Ukraine is not an extraordinary and compelling reason for release. He maintains that the court relied too literally on a guidelines policy statement that identifies a qualifying circumstance as a death or injury that leaves a prisoner's partner or minor children without a caregiver. See U.S.S.G. § 1B1.13 cmt. n.1(C). Skaggs contends that the court erred by treating this statement as a necessary condition, rather than one of many things that could qualify as an extraordinary and compelling reason.

The district court, however, acted well within its discretion by concluding that the war was not an extraordinary and compelling reason for release. Although the policy statement is not binding, the court was allowed to use it to guide its discretion.

*United States v. Gunn*, 980 F.3d 1178, 1180 (7th Cir. 2020); see also *United States v. Kurzynowski*, 17 F.4th 756, 760 (7th Cir. 2021). The court appropriately noted that Skaggs had not provided evidence of the only circumstance from the policy statement that could have applied: the lack of a caregiver for a partner or minor children.

Skaggs also challenges the court's conclusion that the supposed unlawfulness of his underlying convictions cannot qualify as an extraordinary and compelling reason for release. He acknowledges that our caselaw prevents prisoners from using compassionate-release motions as an end run around a direct appeal or collateral attack, see, e.g., *United States v. Von Vader*, 58 F.4th 369, 371 (7th Cir. 2023), but seeks to distinguish those cases on grounds that they deal not with improper convictions but rather statutory changes to, or new judicial interpretations of, sentencing laws.

The difference he highlights is immaterial. The throughline of our cases is that the compassionate-release statute may not be used to challenge a conviction or sentence for reasons the defendant could have advanced on direct appeal or could be advanced in a collateral attack. See, e.g., *id.*; *United States v. Brock*, 39 F.4th 462, 465 (7th Cir. 2022). To the extent Skaggs wishes to argue that his recording of the videos falls outside the conduct criminalized by 18 U.S.C. § 2251, he needed to advance this argument on direct appeal or in a collateral attack rather than a motion for compassionate release. (Skaggs protests that he did not have the opportunity to raise this challenge during his direct appeal, but we have addressed and rejected this argument in a previous appeal. See *United States v. Skaggs*, No. 22-2424, slip op. at 8 (7th Cir. Aug. 23, 2023).)

Skaggs also argues that the district court improperly weighed the sentencing factors under 18 U.S.C. § 3553(a). But because he failed to establish an extraordinary and compelling reason for release, the court did not need to address the factors at all. *United States v. Ugbah*, 4 F.4th 595, 598 (7th Cir. 2021).

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

AFFIRMED