

NONPRECEDENTIAL DISPOSITION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 26, 2024*

Decided March 1, 2024

Before

DIANE S. SYKES, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 23-2443

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TIMOTHY RYAN,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

No. 3:15-CR-62-RLM

Robert L. Miller, Jr.,
Judge.

ORDER

Timothy Ryan, a federal prisoner serving a 157-month sentence for offenses involving child pornography, appeals the denial of his most recent motion for compassionate release. Because the district judge did not abuse his discretion by

* 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).

concluding that Ryan's health conditions did not constitute an extraordinary and compelling reason for an early release, we affirm.

Ryan first moved for compassionate release in January 2021, citing the dangers posed by COVID-19 and his prison's allegedly ineffective protocol for mitigating the risks. *See* 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13. We affirmed the denial of his motion because Ryan did not furnish evidence that he faced particularized risks from COVID or that the prison took inadequate precautions. *See United States v. Ryan*, No. 21-1275, 2021 WL 6102169 (7th Cir. Dec. 23, 2021).

In February 2023 Ryan again sought compassionate release, this time submitting a lengthy brief and multiple exhibits, including medical records. He argued that insufficient medical treatment for his various conditions—including complications from a previous COVID infection, a seizure disorder, sleep apnea, hypertension, hypersomnia, asthma, and chronic obstructive pulmonary disease—placed him at grave risk in the prison setting. He further contended that his maladies increased his vulnerability to serious illness from COVID and that he has never refused the vaccine but has been sick each time it was offered. And he asserted that his medical records frequently downplayed the severity of his conditions and that some were fabrications.

After receiving the government's response in opposition, the judge denied Ryan's motion for compassionate release. First, the judge ruled that Ryan's health conditions, together or separately, did not justify early release because they were being managed, or as in the case of seizures and sleep apnea, they would be addressed when normal testing and treatment resumed after the pandemic waned. Other conditions, the judge continued, simply were not severe. The judge also determined that Ryan had declined the COVID vaccine on multiple occasions without good reason and therefore could not justify early release based on the potential risks of another bout with the virus (he has been infected multiple times). Next, the judge explained that Ryan's grievances about facility-wide conditions related to COVID mitigation did not present an individualized reason to grant a motion for compassionate release, and further, that such a motion was an inappropriate vehicle for challenging conditions of confinement or the adequacy of medical treatment at his prison.

Ryan filed a motion to reconsider that was timely under the prison mailbox rule. *See* FED. R. APP. P. 4(c). He primarily disputed the judge's summary of the evidence. The judge denied the motion, explaining that some of Ryan's assertions were not credible given the evidence in the record and that Ryan's motion mostly restated his arguments

without identifying a legal or factual error in the prior decision. The judge then granted Ryan's request to treat the reconsideration motion, if unsuccessful, as a notice of appeal.

On appeal Ryan contends that because of inaccuracies in his medical records, the judge did not perceive that his ailments were severe enough to be an extraordinary and compelling reason for compassionate release. We review both the denial of a compassionate-release motion and the denial of a motion to reconsider for abuse of discretion. *United States v. Sarno*, 37 F.4th 1249, 1253 (7th Cir. 2022).

Ryan's primary argument amounts to a request that we reweigh the medical evidence to reach a conclusion different from the district court's, which is not our role. First, the judge considered, but rejected, Ryan's assertion that his records were falsified, and Ryan provides no reason to question that finding. His disagreement with medical providers' characterizations does not establish that the records were fabricated.

Second, the judge appropriately viewed the entirety of Ryan's treatment history in determining that Ryan's conditions were mild, were being managed, or were nonemergency conditions for which testing or treatment was delayed by pandemic-related closures. In doing so the judge viewed Ryan's conditions separately and collectively and concluded that they were not severe enough to be extraordinary and compelling. We do not second-guess the judge's holistic assessment of Ryan's situation. *See United States v. Vaughn*, 62 F.4th 1071, 1073 (7th Cir. 2023).

The judge also properly considered Ryan's unvaccinated status. Prisoners seeking compassionate release based on the dangers presented by COVID must show that they cannot receive or medically benefit from vaccines or that, even vaccinated, they would be safer outside prison. *See id.* at 1072; *United States v. Broadfield*, 5 F.4th 801, 802–03 (7th Cir. 2021). Ryan has not attempted to make this showing. Instead, he submits evidence that he answered "yes" to the question "Are you sick today?" when the vaccine was offered, and he states that the vaccine was therefore "contraindicated." At most, this would be true in those specific instances, but Ryan does not address the general questions whether he could benefit medically from the vaccine or would be safer outside the prison setting. Moreover, the judge properly determined that Ryan was just speculating. He did not point to evidence that he ever declined the vaccine on the advice of a medical professional; he instead drew inferences from a pamphlet for a medication he was taking and the pre-vaccine screening form.

To the extent that Ryan reprises on appeal his general challenges to the conditions of his confinement, including the quality of healthcare available, he does not

demonstrate error in the judge's conclusion that there are other avenues for these arguments. *See United States v. Bridgewater*, 995 F.3d 591, 599 (7th Cir. 2021).

AFFIRMED