

20-3044(L)
United States v. Williams

United States Court of Appeals For the Second Circuit

August Term 2022

Submitted: February 10, 2023

Decided: May 24, 2024

Nos. 20-3044(L), 20-3750(Con)

UNITED STATES OF AMERICA,

Appellee,

v.

JULIUS WILLIAMS, a.k.a. STINKER, a.k.a. JULIUS ROBINSON,

*Defendant-Appellant.**

Appeal from the United States District Court
for the Southern District of New York
No. 00-cr-237-3, Victor Marrero, *Judge*.

Before: KEARSE, SULLIVAN, and MERRIAM, *Circuit Judges*.

Julius Williams appeals from the denial of his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), which permits a court to reduce a defendant's sentence if the original sentence was based on a Sentencing Guidelines range that the United States Sentencing Commission has subsequently lowered. Williams argues that the district court (Marrero, J.) wrongly concluded that he was

* The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

ineligible for a sentence reduction under the Commission's 2014 revisions to the narcotics Guidelines because he participated in a narcotics-related murder that subjected him to a higher Guidelines range under the "murder cross-reference" provision of U.S.S.G § 2D1.1(d)(1). Because the district court denied Williams's motion on the independent ground that a sentence reduction was not warranted under the objectives of sentencing set forth in 18 U.S.C. § 3553(a), we affirm the district court's decision without reaching the issue of Williams's eligibility for a sentence reduction under section 3582(c)(2).

Judge Kearse dissents in a separate opinion.

AFFIRMED.

Winston M. Paes, Isabela Garcez, McCahey Townsend, Katherine Stein, Beatrice A. Walton Debevoise & Plimpton LLP, New York, NY, *for Defendant-Appellant*.

Micah F. Fergenson, Karl Metzner, Assistant United States Attorneys, *for* Damian Williams, United States Attorney for the Southern District of New York, New York, NY, *for Appellee*.

RICHARD J. SULLIVAN, *Circuit Judge*:

Julius Williams appeals from the denial of his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), which permits a court to reduce a defendant's sentence if the original sentence was based on a Sentencing Guidelines range that the United States Sentencing Commission has subsequently lowered. Williams argues that the district court (Marrero, J.) wrongly concluded that he was ineligible for a sentence reduction under the Commission's 2014 revisions to the

narcotics Guidelines because he participated in a narcotics-related murder that subjected him to a higher Guidelines range under the “murder cross-reference” provision of U.S.S.G. § 2D1.1(d)(1). Because the district court denied Williams’s motion on the independent ground that a sentence reduction was not warranted under the objectives of sentencing set forth in 18 U.S.C. § 3553(a), we affirm the district court’s decision without reaching the issue of Williams’s eligibility for a sentence reduction under section 3582(c)(2).

I. BACKGROUND

In 2002, Williams was convicted at trial of racketeering, in violation of 18 U.S.C. § 1962(c) (Count One); racketeering conspiracy, in violation of 18 U.S.C. § 1962(d) (Count Two); and conspiracy to distribute crack cocaine, in violation of 21 U.S.C. §§ 812, 841(a), 841(b)(1)(A) (Count Three). After granting Williams’s motion to set aside his conviction on Count One, the district court sentenced Williams on the remaining counts. Following the then-mandatory Sentencing Guidelines, the district court grouped Counts Two and Three together and applied a base offense level of thirty-two – the level applicable for conspiring to distribute at least fifty grams of crack cocaine. The court then added a three-level enhancement for Williams’s role as a manager and supervisor of the conspiracy,

see U.S.S.G. § 3B1.1(b), and a two-level enhancement for his possession of a dangerous weapon in connection with the offense, *see id.* § 2D1.1(b)(1), for a total offense level of thirty-seven. The court next determined that Williams was a career offender, resulting in a criminal history category of VI under section 4B1.1 of the Guidelines. Although an offense level of 37 and a criminal history category of VI would ordinarily result in a Guidelines range of 360 months to life imprisonment, the district court properly noted that the aggregate statutory maximum sentence for Counts One and Two together was 600 months, yielding a revised sentencing range of 360 to 600 months pursuant to section 5G1.1.

At sentencing, the district court noted that the evidence introduced at trial supported application of the murder cross-reference provision set forth in section 2D1.1(d)(1) of the Guidelines. Specifically, the court found that the testimony of four eyewitnesses and the medical examiner, coupled with evidence recovered from the crime scene, established by a preponderance of the evidence – and, in fact, by clear and convincing evidence – that Williams stabbed Alan McLeod to death, conduct for which the jury had been unable to reach a verdict. Based on this finding, the district court determined that “the murder cross-reference under U.S. Sentencing Guidelines [s]ection 2D1.1(d)(1) applies to Mr.

Williams . . . , which therefore leads to the adoption of an offense level of 43.” App’x at 166. Although such an offense level would typically result in a Guidelines range of life imprisonment, the district court again noted that Williams’s counts of conviction carried an aggregate maximum term of imprisonment of 600 months, which thereby resulted in a Guidelines range of 600 months – or 50 years.

Because the Guidelines were mandatory at the time, and because the murder cross-reference resulted in a higher offense level, the district court was required to apply the cross-reference when determining the applicable Guidelines range. *See* U.S.S.G. § 2D1.1(d)(1). Nevertheless, the district court did not do so. Observing that the applicable Guidelines range would not “change significantly” under the higher offense level from the murder cross-reference, App’x at 167, the district court relied on the lesser offense level of 37 in sentencing Williams to the statutory maximum term of 600 months’ imprisonment. Williams appealed his conviction and sentence, which we largely affirmed; we nevertheless remanded to the district court to consider whether resentencing was warranted in light of *United States v. Booker*, 543 U.S. 220 (2005), which rendered the previously

mandatory Sentencing Guidelines advisory. *See United States v. Santiago*, 126 F. App'x 21, 23–24 (2d Cir. 2005).

On *Booker* remand, after “reexamining its original sentencing decision,” the district court denied Williams’s request for resentencing. *United States v. Santiago*, 413 F. Supp. 2d 307, 311 (S.D.N.Y. Feb. 6, 2006). The district court noted that, but for the statutory maximum sentence of 50 years, “Williams faced a custodial sentence that, under two alternative applications of the Guidelines that the [c]ourt considered, would have ranged from 360 months to life imprisonment according to one computation and to life under the other.” *Id.* at 312. The district court also reaffirmed that “sufficient evidence indicated that Williams twice shot [Francisco] Martinez in the back, and that he did inflict several fatal knife wounds on [Alan] McLeod, the last of which Williams administered after McLeod had fled from him and was already lying prone on the ground as a result of the first stab.” *Id.* at 321. “[B]earing in mind such aggravating circumstances,” the district court concluded that a lower sentence was not warranted. *Id.* at 322. Williams appealed the district court’s denial, and we affirmed. *See United States v. Williams*, 216 F. App'x 67 (2d Cir. 2007).

In 2014, while Williams was serving his sentence, the United States Sentencing Commission promulgated Amendments 782 and 788 to the Guidelines, which retroactively reduced the base offense levels for certain drug crimes. *See* U.S.S.G. app. C, amends. 782, 788. Based on the 2014 amendments, Williams moved *pro se* for a sentence reduction under section 3582(c)(2), which permits a district court to reduce a defendant's sentence if the sentence was based on a Guidelines range that was subsequently lowered. *See* 18 U.S.C. § 3582(c)(2). The district court denied Williams's motion and his request for appointed counsel in a 2016 order. *See United States v. Williams*, 190 F. Supp. 3d 359 (S.D.N.Y. June 3, 2016). The district court agreed that Williams was indeed *eligible* for a sentence reduction on account of the 2014 amendments, which lowered his offense level by two, resulting in a Guidelines range of 292 to 365 months. The district court nevertheless denied Williams's request for a sentence reduction because such relief was *unwarranted* in light of the section 3553(a) factors.

Specifically, the district court concluded that "[t]he first factor listed in [s]ection 3553(a)(1), the nature and circumstances of the offense," weighed against a reduction because "Williams, in the course of participating in the conspiracy to distribute crack cocaine, did stab Mr. Alan McLeod to death, a murder that was

carried out intentionally, with premeditation and deliberation” and because “Williams engaged in acts of extreme violence, including Williams’s firing a gun at and twice wounding another individual in the back while pursuing him following a fight.” *Id.* at 364 (alterations and internal quotation marks omitted). Furthermore, the district court determined that “[t]he second factor in [s]ection 3553(a)(1), ‘the history and characteristics of the defendant,’” weighed against a reduction because Williams was a career offender, and “nothing on the record indicated that Williams showed any remorse for his crimes.” *Id.* at 364–65 (quoting U.S.S.G. § 3553(a)). Finally, the district court determined that the section 3553(a)(2) factors – “the need for the sentence imposed (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner,” 18 U.S.C. § 3553(a)(2) – weighed against a reduction because of the “seriousness of Williams’s offense, the egregious nature of his conduct, and the need to deter others and protect the public.” *Williams*, 190 F. Supp. 3d at 365.

More than three years later, on October 4, 2019, Williams, now represented by counsel, asked the district court to “reconsider its denial of [his] motion for reduction of sentence pursuant to [section] 3582(c)(2),” arguing that he was eligible for a greater reduction than the two levels the district court had calculated in 2016. App’x at 234. Specifically, Williams argued that his offense level should have been reduced to 29 rather than to 35, and that his Guidelines range was therefore 151 to 188 months. Williams also maintained that his post-conviction rehabilitative efforts and expressions of remorse weighed in favor of granting his motion for relief.¹ The government opposed the motion, arguing that the murder cross-reference provision provided an alternative basis in the Guidelines for Williams’s 600-month sentence, making him ineligible for relief under

¹ Although counsel asked the district court to “reconsider” its earlier denial of Williams’s motion for a sentence reduction, App’x at 234, we do not construe the request to have been a formal motion for reconsideration pursuant to Local Criminal Rule 49.1(d). *First*, such a motion – filed more than three years after the district court’s initial denial – would almost certainly have been time-barred, something counsel would no doubt have recognized. *See* S.D.N.Y. & E.D.N.Y. L.R. 49.1(d) (requiring motions for reconsideration in criminal cases to be filed within fourteen days of entry of the court’s order). *Second*, counsel asserted new arguments in favor of a sentence reduction that had not been presented to the district court in connection with Williams’s 2014 request, *see* App’x at 234–38, even though a motion for reconsideration is not a vehicle for presenting new facts, issues, or arguments not previously before the court. *See United States v. McCoy*, 995 F.3d 32, 51 (2d Cir. 2021) (holding that an appeal from the denial of a motion for reconsideration was meritless because such a motion “is inappropriate for the presentation of new facts or contentions, or for an attempt to reargue old ones”), *vacated on other grounds*, 142 S. Ct. 2863 (2022). Considered in context, it seems clear that counsel’s motion was in fact a new request for a sentence reduction pursuant to section 3582(c)(2).

section 3582(c)(2). *See* U.S.S.G. § 1B1.10(a)(2)(B) (forbidding sentence reductions if the amendment “does not have the effect of lowering the defendant’s applicable guideline range”).

The district court agreed with the government that Williams was not eligible for relief under section 3582(c)(2) – contradicting its 2016 determination that Williams *was* eligible for a two-level reduction on account of the 2014 amendments to the Sentencing Guidelines. *See United States v. Williams*, No. 00-cr-237-3 (VM), 2020 WL 5253205, at *5 (S.D.N.Y. Sept. 3, 2020). The district court explained that, had it foreseen the 2014 amendments, “it would still have calculated the Guidelines range based on the murder cross-reference provision of [s]ection 2D1.1(d)(1).” *Id.* It also noted that Williams’s new section 3553(a) evidence, which primarily involved his remorse and rehabilitation, was not sufficient to warrant a sentence reduction. Williams timely appealed from the district court’s denial of his motion.

II. DISCUSSION

Generally, a federal court “may not modify a term of imprisonment once it has been imposed.” 18 U.S.C. § 3582(c). Among the few exceptions to this general rule is “the case of a defendant who has been sentenced to a term of imprisonment

based on a sentencing range that has subsequently been lowered by the Sentencing Commission.” *Id.* § 3582(c)(2). In such a case, a district court must determine “whether the defendant is eligible for a reduction by calculating the Guidelines range that would have been applicable had the amended Guidelines been in place at the time the defendant originally was sentenced.” *United States v. Wilson*, 716 F.3d 50, 52 (2d Cir. 2013). If the defendant is found to be eligible, the district court must still consider whether a sentence reduction is warranted based on the sentencing factors in section 3553(a) and any applicable policy statements issued by the Sentencing Commission. *See Dillon v. United States*, 560 U.S. 817, 827 (2010). We review the district court’s denial of Williams’s motion for abuse of discretion, and any questions of law we review *de novo*. *See United States v. Johnson*, 732 F.3d 109, 113 (2d Cir. 2013).

The district court did not abuse its discretion in denying Williams’s 2019 motion. Although the parties fiercely dispute whether the district court “applied” the murder cross-reference at the original sentencing and, if not, whether the district court’s failure to apply it precludes it from doing so on a motion for resentencing under section 3582(c), we need not reach those issues given the district court’s independent conclusion that the section 3553(a) factors counseled

against granting Williams relief. In the course of denying Williams's 2019 motion, the district court stated that, to grant Williams's request for a sentence reduction, it would have to consider "the nature and circumstances of the offense," "the history and characteristics of the defendant," and the need to "protect the public from further crimes of the defendant," among other section 3553(a) factors. *Williams*, 2020 WL 5253205, at *4 (quoting 18 U.S.C. § 3553(a)) (internal quotation marks omitted). With those factors in mind, the district court acknowledged that Williams had recently "expressed remorse for his actions" and that he had "taken [steps] to rehabilitate himself [while in custody]." *Id.* at *5. Nevertheless, while the district court commended Williams for his efforts at rehabilitation, it ultimately concluded that a sentence reduction was not appropriate.

To be sure, the district court did not mechanically march through each and every one of the section 3553(a) factors. But it was under no obligation to do so. Rather, "we presume that the sentencing judge has considered all relevant [section] 3553(a) factors and arguments unless the record suggests otherwise." *United States v. Smith*, 982 F.3d 106, 111 (2d Cir. 2020) (alterations and internal quotations marks omitted). Here, the record reflects the district court's

consideration of the new information relevant to the section 3553(a) factors and, taken as a whole, supports, rather than rebuts, that presumption.

The dissent takes issue with this characterization of the district court's order, arguing that the court did not base its conclusion on the section 3553(a) factors. *See* Dissent at 5–8. But while it's true that the district court stated that “it need not consider the factors set forth in [s]ection 3553(a)” because it had already found Williams to be ineligible for a reduction, the district court began the next sentence with the word “[h]owever,” and then did, in fact, consider those factors. The district court quoted from its prior consideration of the section 3553(a) factors in its 2016 decision, and then discussed Williams's *new* section 3553(a) evidence. *Williams*, 2020 WL 5253205, at *5. In doing so, the district court expressly acknowledged the developments in the record regarding Williams's remorse and rehabilitation since the 2016 decision, which implicated “the history and characteristics of the defendant,” the need for the sentence imposed “to provide just punishment for the offense,” and the need for the sentence imposed “to protect the public from further crimes of the defendant.” 18 U.S.C. § 3553(a). Furthermore, as noted, the district court referenced its 2016 order denying Williams's request for a sentence reduction, in which it had considered the section

3553(a) factors in detail. The district court's view as to the other section 3553(a) factors is therefore "obvious from the history of the case." *United States v. Christie*, 736 F.3d 191, 196 (2d Cir. 2013); *see also Chavez-Meza v. United States*, 585 U.S. 109, 119 (2018) (observing that a court reviewing a resentencing decision should "not turn a blind eye to what the judge said at" prior sentencing proceedings but rather should consider whether "the record as a whole satisfies us that the judge considered the parties' arguments" (internal quotation marks omitted)).²

The dissent seizes on the district court's statement that it could not "reduce a sentence based on rehabilitation alone under either [s]ection 3582(c)(2) or [s]ection 3582(c)(1)(A)," *Williams*, 2020 WL 5253205, at *6, as evidence that the district court did not appropriately consider the § 3553(a) factors, since the "rehabilitation alone" limitation found in 28 U.S.C. § 994(t) is applicable only to reductions under section 3582(c)(1)(A), not reductions under section 3582(c)(2), *see* Dissent at 8. But even if the district court misstated the limits of section 3582(c)(2), we are not persuaded that such a misstatement affected its view of the section 3553(a) factors. It is clear from the rest of the district court's discussion and from

² The dissent argues that *Chavez-Meza* is distinguishable because the district court in that case certified (on a form order) that it had considered the section 3553(a) factors. But here the district court did more than that: it actually discussed the substance of the factors. The distinction the dissent identifies cuts *for* the majority, not against it.

the district court's consistent view of the section 3553(a) factors throughout "the history of the case" that it did not consider a reduction to be warranted. *Christie*, 736 F.3d at 196. We need not remand this case to the district court for it to tell us again what it has already made clear.

Finally, if there were any remaining doubt as to the district court's views concerning the application of the section 3553(a) factors to Williams's motion, that doubt is dispelled by the district court's 2021 order denying Williams's subsequent motion for a sentence reduction under the First Step Act of 2018. *See United States v. Williams*, No. 00-cr-237 (VM), 2021 WL 509987 (S.D.N.Y. Feb. 10, 2021). When considering the section 3553(a) factors, the district court explained that "Williams had engaged in particularly violent and dangerous conduct, including the intentional and premeditated murder of Alan McLeod"; reiterated its 2016 determination that the "seriousness of Williams's offense, the egregious nature of his conduct, and the need to deter others and protect the public weigh[ed] against granting a reduction"; and concluded that the section 3553(a) analysis "ha[d] not meaningfully changed" since the district court's 2016 order, notwithstanding Williams's remorse. *Id.* at *4–5. The district court was "therefore persuaded that[,] even if Williams were eligible [for] and would be subject to a Guidelines reduction,

a sentence reduction would not be warranted.” *Id.* at *5. The dissent does not address this subsequent history.

Based on this record, we hold that the district court did not abuse its “broad discretion” in denying Williams’s 2019 motion for a sentence reduction under section 3582(c)(2). *United States v. Rivera*, 662 F.3d 166, 184 (2d Cir. 2011).

III. CONCLUSION

For all these reasons, we **AFFIRM** the order of the district court.