

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 2, 2022

Lyle W. Cayce
Clerk

No. 21-30452

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CORNELL PENDLETON,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:16-CR-41-1

Before JOLLY, WILLETT, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Cornell Pendleton, federal prisoner #36683-034, appeals the district court's denial of his second 18 U.S.C. § 3582(c)(1)(A)(i) motion for compassionate release. The district court determined, contrary to Pendleton's assertion, that *United States v. Shkambi*, 993 F.3d 388 (5th Cir. 2021) had no bearing on the denial of Pendleton's initial motion for

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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compassionate release. The district court further held that Pendleton failed to show extraordinary and compelling reasons warranting relief. *See* § 3582(c)(1)(A)(i).

Pendleton makes two arguments on appeal:

First, Pendleton contends the district court abused its discretion when it failed to consider the 18 U.S.C. § 3553(a) factors in denying his motion for compassionate release. We disagree. *See United States v. Thompson*, 984 F.3d 431, 433 (5th Cir.), *cert. denied*, 141 S. Ct. 2688 (2021). Because the district court determined that Pendleton failed to properly identify extraordinary and compelling reasons justifying relief, there was no need to analyze the § 3553(a) factors. *See id.* at 433-35.

Second, Pendleton says the district court erroneously discounted evidence supporting his assertion of extraordinary and compelling circumstances. We do not consider this argument, though, as Pendleton presented it for the first time in his reply brief. *See United States v. Peterson*, 977 F.3d 381, 394 n.5 (5th Cir. 2020).

The district court's denial of Pendleton's second motion for compassionate release is AFFIRMED. Pendleton's motion to expedite is DENIED.