

NONPRECEDENTIAL DISPOSITION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 January 16, 2024*

Decided January 24, 2024

BeforeDIANE S. SYKES, *Chief Judge*MICHAEL B. BRENNAN, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 23-1934

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*RANDY SAWYER,
*Defendant-Appellant.*Appeal from the United States District
Court for the Southern District of
Indiana, Terre Haute Division.

No. 2:12-cr-00031-JRS-CMM-01

James R. Sweeney II,
*Judge.***ORDER**

Randy Sawyer, a federal prisoner, filed consecutive motions for compassionate release under 18 U.S.C. § 3582(c)(1)(A). The district judge denied Sawyer's second

* 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).

motion and then denied his motion to reconsider. We have jurisdiction to review only the denial of the latter motion, and we affirm.

In 2013 Sawyer pleaded guilty to one count of conspiring to possess with intent to distribute 500 grams or more of methamphetamine, 21 U.S.C. §§ 841(a)(1), 846, 851, and being a felon in possession of ammunition, 18 U.S.C. § 922(g)(1). The judge sentenced him to 20 years in prison and 10 years of supervised release.

In 2020 Sawyer moved for compassionate release, arguing that his diabetes, along with the conditions at his prison, placed him at a higher risk of contracting COVID-19 and experiencing serious illness. The judge denied the motion. In doing so the judge assumed that Sawyer's medical condition was extraordinary and compelling but nonetheless concluded that the factors set out in 18 U.S.C. § 3553(a) weighed against early release because, among other things, Sawyer's criminal enterprise was extensive and dangerous, and he had committed the offenses while on parole from another conviction. Sawyer appealed the decision but later dismissed the appeal voluntarily.

Soon thereafter in September 2021, Sawyer again moved for compassionate release. This time he raised a new reason for early release: that his minor child's caregiver had health problems that prevented her from continuing to care for the child. He also asserted that new variants of COVID-19 put him at greater risk of experiencing serious illness.

On July 19, 2022, the judge denied this motion as well, finding that Sawyer had not established an extraordinary and compelling reason for release. As the judge explained, Sawyer had introduced insufficient evidence to show that (1) he was the only person who could care for his child; (2) he could not benefit from the COVID-19 vaccination he had received; or (3) he was more at risk for an adverse outcome in prison than he would be if released. And even if Sawyer had presented an extraordinary and compelling reason, the judge ruled—as he had in Sawyer's prior motion—that the § 3553(a) factors counseled against release.

Sawyer moved for reconsideration on August 22, 2022. He argued that his due-process rights were violated when the judge permitted the government to submit an untimely response to his compassionate-release motion. Sawyer also contended that the judge had subjected him to “double punishment” by considering the § 3553(a) factors when ruling on the motion. And he pointed to the disparity between the sentence he received and the sentence he would have faced under current law.

The judge denied the motion for reconsideration on April 13, 2023, pointing out that courts may deny a compassionate-release motion without a government response. Regardless of any response filed by the government, the judge said, he would have reached the same decision: Sawyer had not established an extraordinary and compelling reason for release and, even if he had, the § 3553(a) factors—particularly his extensive criminal history—weighed against early release.

Sawyer filed a notice of appeal on May 16, more than nine months late for an appeal from the July 19, 2022 order denying compassionate release and at least 12 days late for an appeal from the April 13, 2023 order denying reconsideration. We ordered Sawyer to explain why the appeal should not be dismissed as untimely. He then filed a motion in the district court seeking an extension of time to appeal the April 13 reconsideration decision. The judge granted the motion. After both parties submitted jurisdictional statements, we limited the appeal to the reconsideration order. We review that order for an abuse of discretion. *United States v. Sarno*, 37 F.4th 1249, 1253 (7th Cir. 2022).

Sawyer asserts that the level of care he is receiving in prison is inadequate to protect him from COVID-19; that prison conditions have created an overly harsh sentence; that the § 3553(a) factors, properly weighed, favor his release; and that changes in sentencing law—combined with an unusually long sentence—warrant a review of his sentence. But the judge acted well within his discretion by declining to reconsider his earlier rejection of these contentions. *See id.* The judge had merely to evaluate the § 3553(a) sentencing factors and identify “just one good reason” to deny compassionate release. *United States v. Rucker*, 27 F.4th 560, 563 (7th Cir. 2022). Here, the judge provided one: that early release was outweighed by Sawyer’s numerous prior convictions.¹

AFFIRMED

¹ We acknowledge the Sentencing Commission’s amendments to the Guidelines that took effect on November 1, 2023, and expanded the list of “extraordinary and compelling reasons” that may warrant a sentence reduction under 18 U.S.C. § 3582(c)(1)(A), including for a defendant with an “unusually long sentence.” U.S. SENT’G GUIDELINES MANUAL § 1B1.13(b)(6) (U.S. SENT’G COMM’N Nov. 1, 2023). We may consider the amendments in an appropriate case, but we decline to do so today.