

NONPRECEDENTIAL DISPOSITION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 June 12, 2025*

Decided June 17, 2025

BeforeDIANE S. SYKES, *Chief Judge*MICHAEL Y. SCUDDER, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-2849

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*MATTHEW W. WHITED,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of
Illinois, Western Division.

No. 3:05 CR 50060

Lindsay C. Jenkins,
*Judge.***ORDER**

Matthew Whited appeals the denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). The district judge determined that Whited did not establish an extraordinary and compelling reason for an early release, and that even if

* 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).

he had, the sentencing factors in 18 U.S.C. § 3553(a) weighed against that relief. Because the judge did not abuse her discretion, we affirm.

Whited pleaded guilty in 2004 to several child-exploitation offenses. He was sentenced to 300 months in prison based on the applicable range under the federal Sentencing Guidelines at the time of his sentencing: 296–365 months. But at the time he committed the offenses of conviction, the applicable range was 168–210 months. In 2013, the Supreme Court held that the Ex Post Facto Clause requires courts to apply the guidelines in effect at the time of the offense, not sentencing, if the earlier guidelines produce a lower range. *Peugh v. United States*, 569 U.S. 530, 544 (2013).

Whited has sought relief from his sentence multiple times based on the holding of *Peugh*. His motion under 28 U.S.C. § 2255 failed because *Peugh* does not apply retroactively to cases on collateral review. *See Whited v. United States*, No. 20-1557 (7th Cir. May 5, 2020) (denying request to file successive collateral attack). He later filed a first motion for compassionate release, arguing—to no avail—that *Peugh*’s holding and his health conditions warranted a reduced sentence. *See Whited v. United States*, No. 21-1644, 2022 WL 1259028 (7th Cir. Apr. 28, 2022) (affirming denial of motion for compassionate release).

Whited recently moved again for compassionate release. He argued that he has an extraordinary and compelling reason because his sentence is “unusually long.” U.S.S.G. § 1B1.13(b)(6). Specifically, he asserted that a gross disparity exists between his sentence and the one that would have been imposed if *Peugh* had been in effect at the time of his sentencing. Whited also contended that the factors under 18 U.S.C. § 3553(a) weighed in his favor because he has had “perfect behavior” during his 18 years in prison, the Bureau of Prisons rated him as having a minimum risk of recidivism, a doctor concluded that there was no evidence that he poses a risk of personal harm to others, and the sentencing judge had observed that there was no proof that he ever committed aggression toward minors.

The district judge denied the motion. First, she determined that a long sentence based on a post-sentencing change in the law is not an extraordinary and compelling reason for release. Alternatively, she explained that, were there an extraordinary and compelling reason for Whited’s early release, she would still deny the motion because his sentence adequately reflected his serious offense and was necessary to promote respect for the law. Whited appeals, and we review the district judge’s reasoning for abuse of discretion. *United States v. Rucker*, 27 F.4th 560, 562 (7th Cir. 2022).

Whited first argues that he has an extraordinary and compelling reason for a sentence reduction because his sentence was unconstitutional at the time it was imposed. Indeed, *Peugh* establishes that Whited was sentenced based on the wrong guidelines range—a higher range that was not in effect at the time of his offense—and an “underlying right necessarily pre-exists [the Supreme Court’s] articulation of the new rule.” *Danforth v. Minnesota*, 552 U.S. 264, 271 (2008). Nevertheless, a change in the law, announced either by statute or by judicial decision, is not an extraordinary and compelling reason for a sentence reduction under § 3582(c)(1)(A)(i). *United States v. Black*, 131 F.4th 542, 546 (7th Cir. 2025); *United States v. Thacker*, 4 F.4th 569, 575 (7th Cir. 2021); *United States v. Brock*, 39 F.4th 462, 466 (7th Cir. 2022).

Whited also argues that the district judge improperly weighed the § 3553(a) factors because he is not a threat to the public, and an unconstitutional sentence can never promote respect for the law. But the judge did not abuse her discretion. She considered Whited’s lack of criminal history and his clean record with respect to prison discipline, but she concluded that these did not justify a sentence reduction. “One good reason for denying a motion such as [Whited’s] is enough,” *United States v. Ugba*, 4 F.4th 595, 598 (7th Cir. 2021), and the district judge provided one: The existing sentence appropriately reflected the serious nature of Whited’s offenses.

AFFIRMED