

NONPRECEDENTIAL DISPOSITION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 August 28, 2024*

Decided August 29, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1199

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

GERALDO COLON,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of Indiana,
Indianapolis Division.

No. 1:15-cr-00080-JMS-KMB-1

Jane Magnus-Stinson,
Judge.

ORDER

Geraldo Colon, a federal inmate, appeals the denial of his compassionate-release motion under 18 U.S.C. § 3582(c)(1)(A). Because this motion is not the proper vehicle to challenge his original sentence, we affirm.

* 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).

Colon is serving a 30-year sentence for drug charges involving five kilograms or more of cocaine and one kilogram or more of heroin, *see* 21 U.S.C. §§ 841(a)(1), 846, money laundering, *see* 18 U.S.C. §§ 1956, 1957, and making false statements during a bankruptcy proceeding, *see* 18 U.S.C. § 152(2)–(3); *see also United States v. Colon*, 919 F.3d 510 (7th Cir. 2019). He first sought compassionate release in July 2023, arguing that the sentencing court erred by attributing too large a quantity of drugs to him. The district court denied the request, concluding that Colon could not use a compassionate-release motion to remedy supposed errors in a conviction or sentence. To the extent Colon argued that a change in the law had created a disparity in the sentence he received and the sentence he might receive if he were sentenced today, the court explained that this was not an extraordinary and compelling reason for release.

In December 2023, Colon again moved to reduce his prison sentence under § 3582(c)(1)(A), reprising the argument from his first motion. The district court denied this motion for the same reasons, adding that Colon had not served enough of his sentence to benefit from a recent amendment to the Sentencing Guidelines that permits some defendants to seek early release based on intervening changes in constitutional or criminal law. *See* U.S.S.G. § 1B1.13(b)(6) (limiting eligibility to defendants who have served at least ten years of their sentence). Finally, in the alternative, the court ruled that the sentencing factors in 18 U.S.C. § 3553(a) weighed against Colon’s release.

On appeal, Colon renews his argument that the district court attributed an excessive quantity of drugs to him when calculating his sentence. But as the district court properly observed, a compassionate-release motion may not be used as an end run around a direct appeal or collateral attack. *United States v. Brock*, 39 F.4th 462, 465 (7th Cir. 2022); *United States v. Von Vader*, 58 F.4th 369, 371 (7th Cir. 2023), *cert. denied*, 144 S. Ct. 388 (2023).

Colon also asserts that the district court misunderstood him to be seeking relief under U.S.S.G § 1B1.13(b)(6) rather than § 1B1.13(b)(5) (“Other Reasons”), which does not contain the requirement that a defendant have served ten years of his sentence. But § 1B1.13(b)(5) requires a defendant to identify “any other circumstance or combination of circumstances” that warrant release. Colon again points to an alleged error in his sentence as the “other circumstance,” but that just bumps up against our precedent prohibiting review of sentencing challenges brought under the compassionate-release statute. *See United States v. Martin*, 21 F.4th 944, 946 (7th Cir. 2021).

AFFIRMED