

# APPENDIX 1

## UNITED STATES DISTRICT COURT

SOUTHERN

District of

MISSISSIPPI

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Ray Anthony Chaney

Case Number: 1:07cr12LG-JMR-001

USM Number: 08305-043

Michael E. Cox

Defendant's Attorney

## THE DEFENDANT:

pleaded guilty to count(s) \_\_\_\_\_

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☒ was found guilty on count(s) 1, 2 and 3  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. 922(u)	Theft of Firearm from Federal Firearms Licensee	2/22/2007	1
18 U.S.C. 922(j)	Possession of stolen Firearm	2/22/2007	2
18 U.S.C. 922(g)	Possession of Firearm by Convicted Felon	2/22/2007	3

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

10/26/2007

Date of Imposition of Judgment

s/Louis Guirola, Jr.

Signature of Judge

Louis Guirola, Jr., U.S. District Judge

Name and Title of Judge

10/26/2007

Date

DEFENDANT: Ray Anthony Chaney  
CASE NUMBER: 1:07cr12LG-JMR-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

120 months as to Counts 1 and 2 and 235 months as to Count 3, to run concurrently and also to run concurrently with any sentence received from the State of Mississippi on these offenses.

- The court makes the following recommendations to the Bureau of Prisons:  
that the defendant be housed in an institution closest to his home for visitation purposes;  
that the defendant be considered for the 500-hour drug treatment program

- The defendant is remanded to the custody of the United States Marshal.

- ☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_ , with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Ray Anthony Chaney  
CASE NUMBER: 1:07cr12LG-JMR-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

three years' supervised release as to Counts 1 and 2, and five years' supervised release as to Count 3, all to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Ray Anthony Chaney  
CASE NUMBER: 1:07cr12LG-JMR-001

**SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall provide the probation office with access to any requested financial information.
2. The defendant shall participate in a program of testing and/or treatment for drug abuse, as directed by the probation office, until such time as the defendant is released from the program by the probation office. The defendant shall contribute to the cost of such treatment to the extent that the defendant is deemed capable by the probation office.
3. The defendant shall cooperate in establishing paternity for his children and paying any child support ordered by a court of competent jurisdiction.
4. The defendant shall obtain a GED.

DEFENDANT: Ray Anthony Chaney  
CASE NUMBER: 1:07cr12LG-JMR-001

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case*(AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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<b>TOTALS</b>	\$ _____ 0	\$ _____ 0
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Ray Anthony Chaney  
CASE NUMBER: 1:07cr12LG-JMR-001

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

# APPENDIX 2



**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**CAUSE NO. 1:07CR12-LG-JMR**

**RAY ANTHONY CHANEY**

**MEMORANDUM OPINION AND ORDER DENYING  
DEFENDANT'S MOTION FOR COMPASSIONATE RELEASE**

**BEFORE THE COURT** is the [89] Motion for Compassionate Release filed by Defendant, Ray Anthony Chaney. The Government filed a [94] Response in Opposition, to which Plaintiff filed a [98] Reply. After reviewing the submissions of the parties, the record in this matter, and the applicable law, the Court finds that Defendant's Motion should be denied.

**BACKGROUND**

On October 26, 2007, the Court sentenced Chaney to (1) 120 months of imprisonment for violations of 18 U.S.C. §§ 922(u), theft of a firearm from a federal firearms licensee, and 922(j), possession of a stolen firearm, and (2) a concurrent sentence of 235 months for a violation of 18 U.S.C. § 922(g), possession of a firearm by a convicted felon. Defendant is currently housed at Federal Correctional Institution, Oakdale I ("FCI Oakdale I"), and he is scheduled to be released on April 5, 2023.

On May 4, 2020, Chaney filed a Motion for Compassionate Release based on the ongoing COVID-19 pandemic and medical issues that allegedly render him more vulnerable to the virus. On May 22, 2020, the Government filed a response in

opposition to the Motion, arguing that (1) Chaney failed to exhaust his administrative remedies, (2) he had not demonstrated any extraordinary or compelling reason to grant a reduction, and (3) the § 3553(a) factors weigh against his release. Chaney then filed a reply brief on May 27, 2020.

## DISCUSSION

### I. Ripeness of Defendant's Motion

A district court may reduce a defendant's term of imprisonment after (1) "the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf," or (2) "the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility." 18 U.S.C. § 3582(c)(1)(A). Chaney argues that he submitted a request to the Warden on April 23, 2020 and that "the exhaustion requirement was fulfilled" on May 23, 2020. (Reply Supp. Mot. Compassionate Release 2, ECF No. 98).<sup>1</sup> To support his argument, Chaney offers an "Administrative Remedy Generalized Retrieval" which seems to show the request, carrying a timestamp of April 23, 2020. (See Adm. Remedy Retrieval, ECF No. 89-7). There is no indication that this request has been answered. Therefore, as 30 days have now passed, the Court may consider Chaney's Motion on the merits. *United States v. Jimison*, No. 4:08-CR-11-DPJ-LRA, 2020 WL 3213429, at \*2 (S.D. Miss. Jun. 15, 2020) (considering a motion

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<sup>1</sup> In his original brief, Chaney alleged that his request was filed on April 22, 2020. (Mot. Compassionate Release 7, ECF No. 89). The cited exhibit seems to carry an April 23 timestamp (See Adm. Remedy Retrieval, ECF No. 89-7), but the Court concludes that Chaney has exhausted his administrative remedies under either date.

for sentence reduction even though the defendant “filed his motion before exhausting his administrative remedies,” as the period elapsed in the intervening time).

## **II. Merits of Defendant’s Motion**

First, to the extent Defendant requests that the Court “order Mr. Chaney to serve the remainder of his Bureau of Prisons (‘BOP’) sentence on home confinement” (Mot. Compassionate Release 1, ECF No. 89), the Court notes that it lacks the authority to order home confinement. *See* 18 U.S.C. § 3621(b) (providing that “[t]he Bureau of Prisons shall designate the place of the prisoner’s imprisonment,” taking into account his security designation, his programmatic needs, his mental and medical health needs, his faith-based needs, the proximity to his primary residence, BOP’s security concerns, and the recommendations of the sentencing court); *United States v. Adcock*, No. 3:19-CR-00106, 2020 WL 2043811, at \*3 (W.D. La. Apr. 28, 2020).

Second, to the extent Defendant requests a sentence reduction, he is correct that a court can reduce a sentence “if it finds that extraordinary and compelling reasons warrant such a reduction” and “that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A). The court also must consider the factors set forth in 18 U.S.C. § 3553(a), to the extent they are applicable. *Id.*

The Sentencing Commission has not issued a relevant policy statement since 18 U.S.C. § 3582(c)(1)(A) was amended to permit defendants to file motions for

compassionate release.<sup>2</sup> Some courts continue to obtain guidance from the prior policy statement, U.S.S.G. § 1B1.13, while other courts have determined that they are no longer bound by the prior policy statement. *Compare United States v. York*, Nos. 3:11CR76, 3:12CR145, 2019 WL 3241166, at \*4 (E.D. Tenn. July 18, 2019), *with United States v. Brown*, 411 F. Supp. 3d 446, 451 (S.D. Iowa 2019). Regardless of whether the policy statement remains binding, it continues to provide helpful guidance for determining whether a defendant is entitled to compassionate release.

The policy statement provides that “extraordinary and compelling reasons” for release exist if the defendant is suffering from a serious physical or medical condition “that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.” U.S.S.G. § 1B1.13 cmt. n.1(A)(ii).

The policy statement also provides that the defendant should not pose “a danger to the safety of any other person or to the community.” U.S.S.G. § 1B1.13(2). To determine whether a defendant poses a danger, courts consider the nature and circumstances of the offense charged and the weight of the evidence against the defendant, as well as the defendant’s physical and mental condition, family ties, employment, criminal history, and drug and alcohol use history. 18 U.S.C. § 3142(g). The nature and seriousness of the danger to any person or the

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<sup>2</sup> Prior to enactment of the First Step Act, only the Bureau of Prisons could file motions for compassionate release.

community that would be posed by the defendant's release is also an important factor. *Id.*

Defendant's Motion for Compassionate Release, like countless others around the country, is premised on the ongoing COVID-19 pandemic, which "has already spread to FCI Oakdale I." (Mot. Compassionate Release 23, ECF No. 89).

Defendant, a 59-year-old male, further cites his type II diabetes, epilepsy, hypertension, and hepatitis C as medical problems which could potentially leave him more vulnerable to the virus. These conditions are present in Chaney's medical records. (*See* Medical Records, ECF No. 89-3).

Publications by the Centers for Disease Control and Prevention (CDC) have recognized type II diabetes as a condition which "may put people at higher risk of severe illness from COVID-19." *Groups at Higher Risk for Severe Illness*, Ctrs. for Disease Control & Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html#diabetes> (retrieved June 16, 2020).

The CDC has not recognized hypertension on its own as an underlying medical condition that might cause a person to be at higher risk for severe illness from COVID-19. *Frequently Asked Questions, COVID-19 and Hypertension*, Ctrs. for Disease Control & Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#COVID-19-and-Hypertension> (retrieved June 16, 2020).

Nevertheless, high blood pressure can increase a patient's risk of becoming seriously ill from COVID when combined with other conditions, such as diabetes. *See id.* The Court can find no indication that the CDC considers Chaney's other

medical conditions—epilepsy and hepatitis C—as increasing either risk or severity of COVID-19.

Preexisting medical conditions that place a defendant at increased risk for serious illness from COVID-19 are not in and of themselves sufficient to establish extraordinary and compelling reasons justifying a reduction in sentence. *See, e.g., United States v. Olejniczak*, No. 1:15-CR-142-EAW, 2020 WL 2846591, at \*4 (W.D.N.Y. June 2, 2020); *see also United States v. Denault*, No. 11 Crim. 121-7 (GBD), 2020 WL 2836780, at \*2 (S.D.N.Y. June 1, 2020); *United States v. Colonna*, No. 18-cr-60012-BLOOM, 2020 WL 2839172, at \*4 (S.D. Fla. June 1, 2020). However, Defendant is correct that the Bureau of Prisons (BOP) reports at least thirty inmates and ten staff have confirmed active COVID-19 cases at FCI Oakdale I, where he is housed. *See COVID-19 Cases*, Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last visited June 8, 2020).

The Eastern District of Louisiana found extraordinary and compelling reasons to release a 63-year-old inmate with relevant underlying medical conditions from an Oakdale facility. *United States v. Prasad*, No. 19-CR-71, 2020 WL 2850147, at \*3 (E.D. La. Jun. 2, 2020). The Northern District of Texas ordered a 54-year-old inmate with “asthma, bronchitis, hypertension,” and other conditions released based in part on “the rapid spread of COVID-19 at FCI Oakdale.” *United States v. Heitman*, No. 3:95-CR-0160(4)-G, 2020 WL 3163188, at \*4 (N.D. Tex. Jun. 12, 2020) (referring to *United States v. Lee*, No. 3:07-CR-289-M-2 (N.D. Tex. Apr. 23, 2020)). Defendant reports that he has no disciplinary infractions and has served 72.8

percent of his term. He also cites his completion of courses while incarcerated, as well as a re-entry plan upon release, to support his Motion.

Although much weight should be placed on the Defendant's medical condition and incarceration at FCI Oakdale, the Court agrees with the Government that "the § 3553(a) factors strongly disfavor a sentence reduction." (Govt.'s Resp. Def.'s Mot. Reduce Sent. 19, ECF No. 94). The § 3553 sentencing factors include the nature and circumstances of the offense and the history of the defendant. The Court may also consider the need for the sentence imposed to reflect the seriousness of the offense, afford adequate deterrence, protect the public, and provide the defendant with needed education, training, and treatment. 18 U.S.C. § 3553(a). Particularly, the Court is concerned about the lengthy criminal history of the defendant, which includes repeated convictions for burglary, larceny, domestic violence, assault, and other crimes. The Court finds that releasing Defendant at this time would not afford adequate deterrence to criminal conduct, nor protect the public from further potential offenses of the Defendant. Finally, a reduction of Defendant's sentence would not reflect the seriousness of his crimes, as he has already benefitted from his multiple sentences being made to run concurrently with one another.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the [89] Motion to Reduce Sentence filed by the defendant, Ray Anthony Chaney, is hereby **DENIED**.

**SO ORDERED AND ADJUDGED** this the 17<sup>th</sup> day of June, 2020.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE



# APPENDIX 3

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

September 29, 2020

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No. 20-60498  
Summary Calendar

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Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

RAY ANTHONY CHANEY, *also known as* RAY ANTHONY BRADLEY,  
*also known as* RAY CHANEY, *also known as* RAY A. CHANEY, *also known*  
*as* RAY N. BRADLEY,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 1:07-CR-12-1

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Before WIENER, SOUTHWICK, and DUNCAN, *Circuit Judges*.

PER CURIAM:\*

Ray Anthony Chaney, federal prisoner # 08305-043, appeals the district court's denial of his motion for a compassionate release reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). In that motion, Chaney

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\* 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.

No. 20-60498

argued that he should be released because Covid-19 was spreading at the Oakdale I Federal Correctional Institution where he is incarcerated and his age and health conditions, including Type II diabetes, put him at an increased risk of serious illness or death if he were to contract the virus.

On appeal, Chaney argues that the district court abused its discretion in determining that the 18 U.S.C. § 3553(a) factors weighed against granting a sentence reduction.<sup>1</sup> He contends that those factors supported his request for a sentence reduction because he is an older, non-violent inmate, has completed numerous self-improvement courses since he had been in prison, has had no prison disciplinary infractions, and has a reentry plan. In denying Chaney's motion, the district court considered those facts but determined that Chaney's lengthy criminal history and other sentencing concerns militated against granting relief. Having reviewed the district court's reasons for denying Chaney's motion to reduce his sentence, we find no abuse of discretion. The district court did not base its decision on an error of law or a clearly erroneous assessment of the evidence. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Chaney's disagreement with how the district court balanced the § 3553(a) factors does not present a sufficient ground for reversal. *See id.* at 694.

Nor has Chaney shown a ground for reversal based on the district court's determination that it lacked the authority to order that he serve the remainder of his sentence of imprisonment under home confinement. The Bureau of Prisons has the sole authority to designate a prisoner's place of incarceration. 18 U.S.C. § 3621(b); *United States v. Voda*, 994 F.2d 149, 151-

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<sup>1</sup> The district court implicitly recognized that Chaney had established "extraordinary and compelling reasons" for his release based on his risk of complications from Covid-19, and the Government does not contest that point. Thus, that issue is not before the court.

No. 20-60498

52 (5th Cir. 1993). Chaney's assertion that the district court could have achieved a similar remedy by reducing his sentence of imprisonment to time served and ordering home confinement as a condition of probation or supervised release has no bearing on his appeal because the district court determined that a reduction of sentence was not warranted.

The district court's judgment is **AFFIRMED**.

United States Court of Appeals  
for the Fifth Circuit

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No. 20-60498  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

September 29, 2020

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

RAY ANTHONY CHANEY, *also known as* RAY ANTHONY BRADLEY,  
*also known as* RAY CHANEY, *also known as* RAY A. CHANEY, *also known*  
*as* RAY N. BRADLEY,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 1:07-CR-12-1

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Before WIENER, SOUTHWICK, and DUNCAN, *Circuit Judges*.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

# APPENDIX 4

2020 WL 5805468

Only the Westlaw citation is currently available.

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. 5th Cir. Rules 28.7 and 47.5. United States Court of Appeals, Fifth Circuit.

UNITED STATES of America, Plaintiff—Appellee,

v.

Ray Anthony CHANEY, also known as Ray Anthony Bradley, also known as [Ray Chaney](#), also known as Ray A. Chaney, also known as Ray N. Bradley, Defendant—Appellant.

No.

20

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60498

Summary Calendar

FILED September 29, 2020

Appeal from the United States District Court for the Southern District of Mississippi, USDC No. 1:07-CR-12-1

**Attorneys and Law Firms**

[Gaines H. Cleveland](#), Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of Mississippi, Gulfport, MS, for Plaintiff-Appellee

[Thomas Creagher Turner, Jr.](#), Esq., Abby Webber Brumley, Esq., Assistant Federal Public Defender, Federal Public Defender's Office, Southern District of Mississippi, Jackson, MS, for Defendant-Appellant


Before [Wiener](#), [Southwick](#), and [Duncan](#), Circuit Judges.



**Opinion**

Per Curiam: \*



\* 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.

\*1 Ray Anthony Chaney, federal prisoner # 08305-043, appeals the district court's denial of his motion for a compassionate release reduction of sentence pursuant to  18 U.S.C. § 3582(c)(1)(A)(i). In that motion, Chaney argued that he should be released because Covid-19 was spreading at the Oakdale I Federal Correctional Institution where he is incarcerated and his age and health conditions, including Type II [diabetes](#), put him at an increased risk of serious illness or death if he were to contract the virus.

On appeal, Chaney argues that the district court abused its discretion in determining that the  18 U.S.C. § 3553(a) factors weighed against granting a sentence reduction.<sup>1</sup> He contends that those factors supported his request for a sentence reduction because he is an older, non-violent inmate, has completed numerous self-improvement courses since he had been in prison, has had no prison disciplinary infractions, and has a reentry plan. In denying Chaney's motion, the district court considered those facts but determined that Chaney's lengthy criminal history and other sentencing concerns militated against granting relief. Having reviewed the district court's reasons for denying Chaney's motion to reduce his sentence, we find no abuse of discretion. The district court did not base its decision on an error of law or a clearly erroneous assessment of the evidence. See [United States v. Chambliss](#), 948 F.3d 691, 693 (5th Cir. 2020). Chaney's disagreement with how the district court balanced the  § 3553(a) factors does not present a sufficient ground for reversal. See *id.* at 694.

<sup>1</sup> The district court implicitly recognized that Chaney had established “extraordinary and compelling reasons” for his release based on his risk of complications from Covid-19, and the Government does not contest that point. Thus, that issue is not before the court.

Nor has Chaney shown a ground for reversal based on the district court's determination that it lacked the authority to order that he serve the remainder of his sentence of imprisonment under home confinement. The Bureau of Prisons has the sole authority to designate a prisoner's place of incarceration.  18 U.S.C. § 3621(b);  [United States v. Voda](#), 994 F.2d 149, 151-52 (5th Cir. 1993). Chaney's assertion that the district court could have achieved a similar

remedy by reducing his sentence of imprisonment to time served and ordering home confinement as a condition of probation or supervised release has no bearing on his appeal because the district court determined that a reduction of sentence was not warranted.

The district court's judgment is AFFIRMED.

**All Citations**

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