

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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November 30, 2022

By the Court:

No. 22-2397	UNITED STATES OF AMERICA, Plaintiff - Appellee
	v. ROBERT J. THOMAS, Defendant - Appellant
Originating Case Information:	
District Court No: 3:09-cr-00134-RLM-1 Northern District of Indiana, South Bend Division District Judge Robert L. Miller	

This cause, docketed on August 5, 2022, is **DISMISSED** for failure to timely pay the required docketing fee, pursuant to Circuit Rule 3(b).

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)	
)	
vs.)	CAUSE NUMBER 3:09-cr-134-RLM
)	
ROBERT J. THOMAS)	

ORDER DENYING COMPASSIONATE RELEASE

Robert J. Thomas is a little more than 60 percent of the way through his aggregate twenty-year sentence for possession with intent to distribute more than 100 marijuana plants, possession with intent to distribute marijuana, possession of a firearm after a felony conviction, and possessing a firearm during and in relation to a drug trafficking crime. Pointing to his obesity and hypertension — two conditions the Centers for Disease Control have identified as likely to lead to the worst outcomes under COVID-19¹ — as reasons for his application for compassionate release under 18 U.S.C. § 3582(c)(1)(A).

A court can grant compassionate release if, but only if, the inmate has exhausted his remedies within the Bureau of Prisons, the inmate demonstrates extraordinary and compelling reasons for immediate release, and relief would be consistent with the sentencing factors set forth in 18 U.S.C. § 3553(a). United States v. Gunn, 980 F.3d 1178 (7th Cir. 2020). The government opposes Mr. Thomas's petition. It disputes whether Mr. Thomas exhausted his remedies within the Bureau of Prisons and, unable to find direct reference to obesity or

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<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>,

ENTERED: September 13, 2021

/s/ Robert L. Miller, Jr.
Robert L. Miller, Jr., Judge
United States District Court

cc: R. J. Thomas

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Cause No. 3:09-cr-134(1)-RLM
)	
ROBERT J. THOMAS)	

ORDER

Defendant Robert J. Thomas moves to reconsider the court's September 13, 2021 order denying his motion for compassionate release. That order refused to find an extraordinary and compelling reason to justify granting Mr. Thomas compassionate release based on his health concerns and the pervasiveness of COVID-19 in prison. Mr. Thomas now says that the Fair Sentencing Act's changes to the mandatory minimum penalties for the crimes he's convicted of constitutes an extraordinary and compelling reason to justify compassionate release. That argument doesn't provide any factual or legal basis that would warrant reconsideration the court's September 13, 2021 order because it doesn't show that the court committed an error of law or fact in that order, or that there's newly discovered evidence that would weigh on the outcome. United States v. Mitchell, 2021 WL 1177864, at *2 (C.D. Ill. Mar. 29, 2021) (citing Caisse Nationale de Credit v. CBI Indus., 90 F.3d 1264, 1269 (7th Cir. 1996)).

Accordingly, the court DENIES Mr. Thomas's motion for reconsideration [Doc. No. 205]. The court takes no position on whether relief is available to Mr. Thomas under other provisions of the Fair Sentencing Act.