

APPX - D

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 22-7100

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY RAVON RUFFIN, a/k/a Anthony Rayvon Ruffin,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Loretta C. Biggs, District Judge. (1:08-cr-00304-LCB-1)

Submitted: May 23, 2023

Decided: May 25, 2023

Before AGEE, WYNN, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Ravon Ruffin, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

APPX-D

FILED: May 25, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7100
(1:08-cr-00304-LCB-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ANTHONY RAVON RUFFIN, a/k/a Anthony Rayvon Ruffin

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

APPX -D

PER CURIAM:

Anthony Ravon Ruffin appeals the district court's order denying his motions for compassionate release. We have reviewed the record on appeal and conclude that the district court did not abuse its discretion in denying relief. *See United States v. Kibble*, 992 F.3d 326, 329 (4th Cir. 2021) (providing standard). Accordingly, we affirm the district court's order. *United States v. Ruffin*, No. 1:08-cr-00304-LCB-1 (M.D.N.C. Aug. 2, 2022). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ANTHONY RAVON RUFFIN)
)
 v.) 1:08CR304-1
)
 UNITED STATES OF AMERICA)

ORDER

This matter came before the Court on the Defendant's pro se Motion to Reconsider and Motion for Relief from Judgment, (ECF No. 158), and Supplemental Motion in Support, (ECF No. 159).

Based on representations to the Court,

IT IS HEREBY ORDERED that the Defendant's pro se Motions, (ECF Nos. 158, 159), are **DENIED**.

IT IS FURTHER ORDERED that Defendant is hereby placed on notice that further filings related to this terminated action may be deemed frivolous and subject to sanctions.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This, the 20th day of October 2022.

/s/ Loretta C. Biggs
United States District Judge

APPX - C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:06-CR-74-BO-1

UNITED STATES OF AMERICA)
v.)
ANTHONY RAVON RUFFIN) ORDER

On May 3, 2023, the court granted defendant's motion "to amend the record with newly discovered evidence in support of motion for compassionate release" [D.E. 182], and denied defendant's remaining motions. See Order [D.E. 183]. On June 7, 2023, defendant filed a letter asking the court what the deadline is to file an amended motion for compassionate release because the court's May 3, 2023 order granted his motion to amend [D.E. 185].

The court notifies defendant that when the court granted his motion to amend, the court considered the newly discovered evidence, as well as the entire record, and concluded that relief under 18 U.S.C. § 3582(c)(1)(A) was not warranted. See Order [D.E. 183]. Thus, to the extent that defendant moves to file an amended motion for compassionate release for the reasons proffered in [D.E. 182], the court DENIES the motion [D.E. 185].

SO ORDERED, this 13 day of June, 2023.

Terrence Boyle
TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

APPX - B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:06-CR-74-BO-1

UNITED STATES OF AMERICA)
)
 v.) ORDER
)
 ANTHONY RAVON RUFFIN)

This cause is before the Court on defendant's numerous pro se motions collectively seeking compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) [D.E. 144, 159, 160, 166, 167, 172, 173, 182]. The government has responded, and the matter is ripe for ruling. For the reasons that follow, the Court grants defendant's motion to amend and denies defendant's remaining motions.

BACKGROUND

On June 11, 2007, defendant pleaded guilty to possession with the intent to distribute more than five grams of cocaine base (crack), in violation of 21 U.S.C. § 841(a)(1), and use and carry a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c).¹ On April 15, 2009, defendant was sentenced to an aggregate term of 322 months' imprisonment. On August 29, 2019, the Court reduced defendant's sentence on the drug charge to 170 months' imprisonment, pursuant to the First Step Act, for a total of 230 months' imprisonment.

While on release and pending sentencing in this Court, defendant committed an armed bank robbery in the Middle District of North Carolina. As a result of that offense, defendant was convicted of bank robbery while on release, in violation of 18 U.S.C. §§ 2113(a) and 3147(1), armed bank robbery while on release, in violation of 18 U.S.C. §§ 2113(a), 2113(d), and 3147(1), carry and use, by brandishing a firearm during a crime of violence while on release, in violation

¹ This matter originally proceeded before Senior United States District Judge James C. Fox and was reassigned to the undersigned on February 25, 2019.

of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 3147(1), and felon possessing a firearm in commerce while on release, in violation of 18 U.S.C. §§§ 922(g)(1), 924(a)(2), and 3147(1). Defendant was sentenced to a total of 415 months' imprisonment, to run consecutively to his sentence in this case. Defendant's current projected release date is June 16, 2054.

On April 9, 2021, the Court denied defendant's prior motions for compassionate release. Defendant appealed, and on November 30, 2021, the United States Court of Appeals for the Fourth Circuit affirmed.

On October 21, 2021, defendant filed the instant pro se motion for compassionate release [D.E. 144]. Since then, defendant has filed numerous pro se motions and documents related to his pro se motion for compassionate release. On March 31 and April 6, 2022, defendant filed pro se motions for his counsel to take certain action [D.E. 159, 160].² On August 19, 2022, defendant filed a pro se motion for reconsideration of his first motion for compassionate release [D.E. 166]. On September 29, 2022, defendant filed another pro se motion for compassionate release and a memorandum in support that was prepared by one of his prior attorneys [D.E. 167]. On October 21, 2022, defendant filed a motion for return of documents from previously appointed counsel

² The Court appointed three different attorneys on three separate occasions to assist defendant with his motion for compassionate release. The Court thereafter granted each attorney's motion to withdraw as counsel. See [D.E. 155, 164, 169]. Thus, because defendant is no longer represented by counsel, the Court denies as moot defendant's motions seeking action from his prior appointed counsel.

[D.E. 172]³ and a motion for relief from order [D.E. 173]⁴. On March 21, 2023, defendant filed a motion to amend his arguments in support of his motion for compassionate release [D.E. 182].⁵

Defendant seeks compassionate release based on his contention that he is not a “superpredator.” See [D.E. 144] 1–2. Defendant also seeks compassionate release based on his serious medical conditions, including cirrhosis of the liver, portal vein thrombosis, rectal prolapse, antisocial personality disorder, cardia arrhythmia (tachycardia), esophageal varices without bleeding, localized mass in left testicle, and abnormal blood chemistry. See [D.E. 167] 4–10. Defendant contends that, in light of his health conditions, the COVID-19 pandemic puts his life in serious jeopardy, and that qualifies as extraordinary and compelling reasons warranting relief under 18 U.S.C. § 3582(c)(1)(A). See id. Defendant further argues that he recently contracted the COVID-19 virus and had a seizure. See [D.E. 182] 1.

The government argues that defendant has not presented extraordinary and compelling circumstances warranting relief under 18 U.S.C. § 3582(c)(1)(A), and that the relief should also be denied based upon the 18 U.S.C. § 3553(a) factors.

DISCUSSION

Subject to few exceptions, a sentence that has been imposed may not be modified. 18 U.S.C. § 3582(c). One exception to this general rule applies where a defendant qualifies for a

³ On October 3, 2022, the Court granted Nardine Mary Guirguis’s (“Guirguis”) motion to withdraw as counsel. Defendant seeks the return of documents he sent to Guirguis, including his college transcripts, a twenty-six page letter to the Court, his administrative remedy, and his criminal complaint. See [D.E. 172-1] 1. On November 30, 2022, Guirguis responded to defendant’s motion and stated that all of defendant’s documents were returned to him. See [D.E. 177]. Thus, the court denies as moot defendant’s motion.

⁴ Defendant moves under Rule 60(b)(6) for relief from the Court’s October 3, 2022 order granting Guirguis’s motion to withdraw as counsel. See [D.E. 173]. Defendant “do[esn’t] know exactly what to ask of the Court,” and simply “ask[s] the Court to do what it deems just and proper.” [D.E. 173-1] 1. The motion lacks merit and is denied.

⁵ The Court grants defendant’s motion to amend arguments in support of his motion for compassionate release.

reduction in his term of imprisonment, often referred to as compassionate release. 18 U.S.C. § 3582(c)(1)(A). Prior to the passage of the First Step Act on December 21, 2018,⁶ the discretion to file a motion for compassionate release under § 3582(c)(1)(A) rested entirely with the Director of the Bureau of Prisons (BOP). Section 603 of the First Step Act amended 18 U.S.C. § 3582(c)(1)(A) to provide that a defendant may request compassionate release from the sentencing court after exhausting his administrative remedies.

Compassionate release may be available to defendants where (1) extraordinary and compelling circumstances warrant a reduction in sentence or (2) a defendant who is serving a life sentence imposed pursuant to 18 U.S.C. § 3559(c) is at least seventy years old and has served at least thirty years in prison. 18 U.S.C. §§ 3582(c)(1)(A)(i)–(ii). A reduction under either section must be consistent with applicable policy statements issued by the United States Sentencing Commission. Id. at (c)(1)(A). When reducing a term of imprisonment via compassionate release, a court “may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment[.]” Id.

Congress has directed the United States Sentencing Commission to promulgate policy statements describing “what should be considered extraordinary and compelling reasons” for sentence reductions. 28 U.S.C. § 994(t). As of now, however, there is no applicable policy statement governing compassionate release motions filed by defendants pursuant to § 3582(c)(1)(A) as recently amended. United States v. McCoy, 981 F.3d 271, 284 (4th Cir. 2020). Therefore, district courts may consider “*any* extraordinary and compelling reason for release that a defendant might raise.” Id. (citing United States v. Brooker, 976 F.3d 228, 230 (2d Cir. 2020)). In addition to considering whether extraordinary and compelling circumstances are present, a court

⁶ Pub. L. No. 115-391, 132 Stat. 5194.

must further consider the 18 U.S.C. § 3553(a) factors to the extent that they are applicable. 18 U.S.C. § 3582(c)(2).

The Guidelines provide three categories of circumstances that are extraordinary and compelling. U.S.S.G. § 1B1.13, comment. n.1. The first concerns the medical condition of the defendant (section A), the second concerns the age of the defendant (section B), and the third concerns the family circumstances of the defendant (section C). There is also a fourth category, a catchall provision, which permits the Director of the Bureau of Prisons to identify other extraordinary circumstances that are not set out by the Guidelines (section D). U.S.S.G. § 1B1.13 comment. n.1(A)–(D). While not determinative, the policy statement outlined in U.S.S.G. § 1B1.13 “remains helpful guidance even when motions are filed by defendants.” McCoy, 981 F.3d at 282 n.7.

Here, even if the Court were to assume that defendant has demonstrated extraordinary and compelling reasons under 18 U.S.C. § 3582(c)(1)(A), compassionate release would be inappropriate upon consideration of the § 3553(a) factors. The nature and circumstances of the offense were serious. Defendant was convicted in this Court of possession with the intent to distribute cocaine base and using and carrying a firearm during and in relation to a drug trafficking crime. While on pretrial release in this case, defendant committed an armed bank robbery in the Middle District of North Carolina. As a result of that offense, defendant was convicted of bank robbery while on release, armed bank robbery while on release, carry and use, by brandishing a firearm during a crime of violence while on release, and felon possessing a firearm in commerce while on release. Before his federal convictions, defendant amassed state convictions for first degree trespassing, simple assault, and three domestic violence protection order violations.

While incarcerated, defendant has received disciplinary infractions for interfering with staff, refusing to obey an order, disruptive conduct, assaulting a cellmate, possessing a dangerous weapon, and fighting. On October 9, 2020, the Federal Bureau of Prisons determined defendant has a high risk for recidivism.

Defendant states that he has completed numerous courses and self-study. However, these factors do not convince the Court that a reduction in defendant's sentence is warranted considering defendant's history, the need to promote respect for the law, and the need to deter future criminal activity. Having reviewed the entire record and considered the relevant factors, the Court concludes that relief under § 3582(c)(1)(A) is not warranted.

CONCLUSION

In sum, the Court GRANTS defendant's motion to amend [D.E. 182] and DENIES defendant's remaining motions [D.E. 144, 159, 160, 166, 167, 172, 173].

SO ORDERED, this 21 day of May, 2023.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

APPX - E

FILED: June 27, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7100
(1:08-cr-00304-LCB-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ANTHONY RAVON RUFFIN, a/k/a Anthony Rayvon Ruffin

Defendant - Appellant

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**