

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

No: 24-1576

United States of America

Plaintiff - Appellee

v.

John Joseph Douglas

Defendant - Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:11-cr-00324-PJS-1)

JUDGMENT

Before LOKEN, BENTON, and GRASZ, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the district court's order denying the motions for compassionate release is summarily affirmed. See Eighth Circuit Rule 47A(a).

March 21, 2024

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 11-CR-0324 (PJS/LIB)

Plaintiff,

v.

ORDER

JOHN JOSEPH DOUGLAS,

Defendant.

John Joseph Douglas, pro se.

This matter is before the Court on defendant John Joseph Douglas's second motion for compassionate release under 18 U.S.C. § 3582. ECF Nos. 211, 212. This Court denied Douglas's first motion for compassionate release in December 2021, primarily because Douglas had not established "extraordinary and compelling reasons" justifying a sentence reduction as required by § 3582(c)(1)(A)(i). *See* Order 2–5, ECF No. 208. In his second motion, in an effort to once again establish extraordinary and compelling reasons for release, Douglas points to the very same health issues (based on the very same health records) that he raised in his first motion. *See* ECF No. 212 at 3 (directing Court to consider records filed in support of previous motion). Because neither his health issues nor the Court's evaluation of the 18 U.S.C. 3553(a) factors have changed materially since 2021, the Court still finds that Douglas's health issues do not warrant a sentence reduction.

Douglas also attempts to invoke the “unusually long sentence” basis for release identified in USSG § 1B1.13(b)(6). According to Douglas, his 240-month sentence is unusually long because he would only be subject to a 10-year maximum term of imprisonment if he were sentenced today for violating 18 U.S.C. § 922(g). As Douglas sees it, because of intervening case law, his burglary convictions no longer constitute violent felonies under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e), and thus he does not have a sufficient number of qualifying convictions to trigger the ACCA’s enhanced penalties. *See, e.g., United States v. Bugh*, 459 F. Supp. 3d 1184, 1198 (D. Minn. 2020) (finding that “neither second- nor third-degree burglary under Minnesota law qualifies as a violent felony under the ACCA”).

But Douglas is mistaken for at least two reasons: First, even if his prior burglary convictions were disregarded, the ACCA would still apply because (as the presentence report explained) Douglas would still be left with four qualifying convictions that “happened at different times and places and had different motivations.” *United States v. Hamell*, 3 F.3d 1187, 1191 (8th Cir. 1993). Second, even if Douglas were not subject to the ACCA (and, again, he is), he would face a statutory maximum penalty of 15 years’ imprisonment (not 10 years’) under the current version of 18 U.S.C. § 924(a)(8). The 240-month sentence Douglas received thus does not qualify as “unusually long” under USSG § 1B1.13(b)(6).

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY ORDERED THAT Douglas's motion for compassionate release [ECF Nos.
211, 212] is DENIED.

Dated: March 7, 2024

s/Patrick J. Schiltz

Patrick J. Schiltz, Chief Judge
United States District Court

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ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

April 29, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Stephanie N. O'Banion

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