

IN THE  
SUPREME COURT OF THE UNITED STATES

Auburn Calloway, Applicant

vs.

United States, Respondent

APPLICATION  
TO  
EXTEND THE TIME  
TO FILE CERTIORARI PETITION

Pursuant to Rule 13.5, I request a **60 days** extension added onto the 90 days imposing a 7/8/2025 deadline for my pro se certiorari petition making the new due date become **SEPTEMBER 8, 2025**.

The Court's jurisdiction basis is 28 U.S.C. 1254(1).

The judgment to be reviewed is the reh' en banc denial of the **6th Circuit Court** on 4/9/25 (enclosed).

The **[60] days** time extension is sought only for this party, i.e. certiorari petitioner Auburn Calloway.

The specific reasons why an extension is justified are set out as follows:

1) As an indigent inmate confined in an institution that is

always locked down, I'm unable to buy copies, supplies, and other aids needed to effect a petition in the 90 days that experienced lawyers and their staff typically abide. Lockdowns also prevent consistent access to assistive staff.

2) Elderly (at 73 years), I'm disabled by painful illnesses e.g. sciatica caused by spinal stenosis with worsening degenerative disc disease and osteoarthritis. These slow physical activity needed to draft petitions. Medical treatment trips and potential hospital stays also take time away from focusing on legal research and writing.

3) Being pro se, I have no legal training. Because the court below denied my motion for continuation of counsel, Ben G. Dusing, appointed at an earlier stage of related litigation, and using a lack of "exceptional circumstances" standard it has yet to establish, I need the extra 60 days to desperately search for pro bono counsel that might meaningfully assist or even represent me which requires more preparation time.

#### PROOF OF SERVICE

I certify/declare that I've given this application to prison staff for prepaid postage mailing to the U.S. Solicitor General.  
May 7, 2025

Auburn Calloway  


No. 24-5474

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Apr 9, 2025  
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

AUBURN CALLOWAY,

Defendant-Appellant.

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ORDER

**BEFORE:** KETHLEDGE, BUSH, and LARSEN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court.\* No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

**ENTERED BY ORDER OF THE COURT**

  
Kelly L. Stephens, Clerk

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\*Judge Ritz is recused in this case.



**NOT RECOMMENDED FOR PUBLICATION**

No. 24-5474

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**

Feb 10, 2025

KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Appellee,	)	
	)	ON APPEAL FROM THE UNITED
v.	)	STATES DISTRICT COURT FOR
	)	THE WESTERN DISTRICT OF
AUBURN CALLOWAY,	)	TENNESSEE
	)	
Defendant-Appellant.	)	

**ORDER**

Before: KETHLEDGE, BUSH, and LARSEN, Circuit Judges.

Auburn Calloway, a pro se federal prisoner, appeals the district court's order denying his motion for compassionate release. He also moves for the appointment of counsel, recusal of the district court judge, recusal of Judge Gibbons, disqualification of the United States Attorney's office, and expedition of the ruling on his appointment-of-counsel motions. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). For the following reasons, we affirm.

In 1994, Calloway was a flight engineer for FedEx. During a flight, he attacked members of a FedEx crew and attempted to hijack the airplane. *United States v. Calloway*, 116 F.3d 1129, 1131-32 (6th Cir. 1997). A federal jury found Calloway guilty of attempted aircraft piracy and interference with flight crew members. *Id.* at 1332. The district court sentenced Calloway to an above-guidelines term of life imprisonment. *Id.* On appeal, we vacated Calloway's conviction of interference with flight crew members based on the government's concession that it was a lesser-

included offense of attempted aircraft piracy. *Id.* at 1331. But we affirmed Calloway’s conviction of attempted aircraft piracy and his life sentence. *Id.*

In 2023, Calloway moved for a sentence reduction and compassionate release under 18 U.S.C. § 3582(c)(1)(A).

We review the denial of a motion for compassionate release under § 3582(c)(1)(A) for an abuse of discretion. *United States v. Ruffin*, 978 F.3d 1000, 1005 (6th Cir. 2020). An abuse of discretion occurs when the district court “relies on clearly erroneous findings of fact, applies the law improperly, or uses an erroneous legal standard.” *United States v. Jones*, 980 F.3d 1098, 1112 (6th Cir. 2020) (quoting *United States v. Pembroke*, 609 F.3d 381, 383 (6th Cir. 2010)).

The compassionate-release statute allows the district court to reduce a defendant’s sentence if it finds that (1) “extraordinary and compelling reasons warrant such a reduction,” (2) the “reduction is consistent with applicable policy statements issued by the Sentencing Commission,” and (3) the § 3553(a) factors, to the extent that they apply, support the reduction. 18 U.S.C. § 3582(c)(1)(A). The district court may deny the motion if any of these “prerequisites . . . is lacking.” *United States v. Elias*, 984 F.3d 516, 519 (6th Cir. 2021).

Calloway identified three factors that he considered extraordinary and compelling reasons for granting compassionate release: (1) his age—71 years old—places him at an increased risk of severe illness or death from COVID-19, (2) he has 15 “chronic comorbid medical infirmities,” and (3) although he received the COVID-19 vaccination, he is not immune from the virus. Calloway also argued that the 18 U.S.C. § 3553(a) factors weighed in favor of reducing his life sentence because (1) his offense was the result of a sleeping disorder and not an act of terrorism, (2) there is no need for deterrence or protection of the public because he is a “law abiding honorably discharged decorated veteran,” (3) no other person convicted of aircraft piracy received a life sentence, and (4) he has no prior criminal history.

The district court denied Calloway’s § 3582(c)(1)(A) motions because the § 3553(a) factors continued to support a life sentence. The court explained that Calloway posed “a grave threat to the public,” given the violent nature of the offense and the intended harm. The court



concluded that a life sentence properly reflected the seriousness of the crime, promoted respect for the law, provided deterrence, and protected the public.

We need not consider whether Calloway presented an extraordinary and compelling reason for compassionate release because the district court's § 3553(a) analysis is sufficient to support its denial of Calloway's motion. *See Elias*, 984 F.3d at 519. The district court described the facts as "disturbing" and explained that Calloway used a spear gun and claw hammers to strike the victims in the head before engaging in hand-to-hand combat. The district court recognized "the heroic acts of the pilots" in safely landing the plane but explained the lifelong physical and mental injuries Calloway inflicted on the victims. Based on these considerations, the district court reasonably concluded that the § 3553(a) factors weighed against compassionate release. Calloway's disagreement with how the district court balanced the § 3553(a) factors is "simply beyond the scope of our appellate review" and is insufficient to warrant reversal. *United States v. Ely*, 468 F.3d 399, 404 (6th Cir. 2006). The district court, therefore, did not abuse its discretion in denying Calloway's motions for compassionate release.

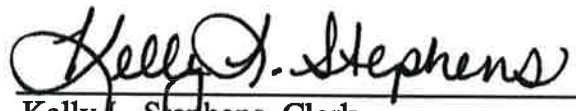
Calloway made several additional motions, all of which the district court denied. He first moved for the recusal of the government prosecutor, who was—by the time of his motion—a judge. He does not appear to appeal the denial of this motion, but he does move for the disqualification of Judge Thomas Parker, who denied his motion. Calloway has not, however, raised any arguments about Judge Parker that would lead "a reasonable, objective person, knowing all of the circumstances, [to] have questioned the judge's impartiality." *United States v. Hartsel*, 199 F.3d 812, 820 (6th Cir. 1999) (citation omitted). Calloway also seeks the disqualification of the entire Memphis U.S. Attorney's office because the U.S. Attorney (at the time he filed this appeal) clerked for his sentencing judge. But Calloway did not raise this argument before the district court, so it is not properly before us for review. *See McFarland v. Henderson*, 307 F.3d 402, 407 (6th Cir. 2002). Calloway also moves for the recusal of Judge Gibbons, his sentencing judge in this case. We deny that motion as moot because Judge Gibbons was not assigned to this

case and is not a member of the en banc court. Calloway also moves for the appointment of a master under Fed. R. App. P. 48. We decline to exercise our discretion to appoint a master here.

Finally, Calloway moves for appointment of counsel. But “there is no constitutional (or statutory) right to appointed counsel in § 3582(c) proceedings,” *United States v. Manso-Zamora*, 991 F.3d 694, 696 (6th Cir. 2021) (per curiam), and he cites no exceptional circumstances that would warrant appointment here, *see, e.g., Bryant v. McDonough*, 72 F.4th 149, 152 (6th Cir. 2023).

Thus, we **AFFIRM** the district court’s judgment. We **DENY** the motions to disqualify the United States Attorney’s office, recuse the district court judge, recuse Judge Gibbons, appoint counsel, and appoint a special master. And we **DENY** as moot the motions to expedite ruling on the appointment-of-counsel motions.

ENTERED BY ORDER OF THE COURT

  
Kelly L. Stephens, Clerk



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