

United States Court of Appeals for the Fifth Circuit

No. 22-11151
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 3, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSHUA WILLIAM JACKSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:16-CR-196-1

Before HAYNES, ENGELHARDT, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Joshua William Jackson, federal prisoner # 54191-177, seeks to proceed in forma pauperis (IFP) on appeal from the denial of his motion for compassionate release, filed pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). Jackson contends that the district court failed to consider and provide sufficient reasons for concluding that the following extraordinary and compelling reasons did not warrant compassionate release: (1) intervening

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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changes in law render his 18 U.S.C. § 922(n) conviction unconstitutional; (2) the district court misapplied the Sentencing Guidelines when calculating his 156-month sentence; (3) his repeated COVID-19 infections; (4) his inability to be vaccinated due to allergies; (4) his rehabilitative efforts since sentencing; and (5) his eligibility to receive time credits pursuant to 18 U.S.C. § 3632(d). Jackson further argues that the district court abused its discretion in denying relief based solely on the sentencing factors set forth in 18 U.S.C. § 3553(a)(2), without consideration and explanation of the remaining § 3553(a) factors.

Here, the district court explicitly stated that it had considered Jackson's arguments for a lower sentence, including his postsentence rehabilitation and the intervening changes in law cited by Jackson, when concluding that compassionate release was not warranted under a balancing of the § 3553(a) sentencing factors. *See Chavez-Meza v. United States*, 138 S. Ct. 1959, 1965 (2018). Jackson's disagreement with how the district court balanced the § 3553(a) sentencing factors is insufficient to demonstrate a nonfrivolous issue for appeal. *See United States v. Chambliss*, 948 F.3d 691, 694 (5th Cir. 2020); *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

Accordingly, Jackson has failed to show a nonfrivolous issue with respect to the district court's denial of his motion for compassionate release based on a balancing of the § 3553(a) sentencing factors. *See id.* at 693. As such, this court need not consider Jackson's contention that extraordinary and compelling reasons justified relief. *See United States v. Jackson*, 27 F.4th 1088, 1093 n.8 (5th Cir. 2022); *Ward v. United States*, 11 F.4th 354, 360-62 (5th Cir. 2021).

Jackson failed to heed the district court's warning regarding the filing of repetitive motions seeking a sentence reduction or compassionate release.

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Instead, he continued to file repetitive motions, as well as a letter threatening to continue to do so “every 60 to 90 days.” Therefore, Jackson does not demonstrate a nonfrivolous issue with respect to whether the district court abused its inherent power to impose a sanction requiring Jackson to obtain the consent of the district court prior to filing any future motion seeking a sentence reduction or compassionate release. *See Gelabert v. Lynaugh*, 894 F.2d 746, 747-48 (5th Cir. 1990); *see also Murphy v. Collins*, 26 F.3d 541, 544 (5th Cir. 1990) (upholding a pre-filing review procedure).

The appeal is without arguable merit and is thus frivolous. *See Howard*, 707 F.2d at 220. Jackson’s motion to proceed IFP on appeal is DENIED, and the appeal is DISMISSED. *See 5TH CIR. R. 42.2.*