

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

January 14, 2022

Lyle W. Cayce  
Clerk

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No. 20-60958  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

EARNEST LEE BROWN,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:13-CR-15-1

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Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges.*

PER CURIAM:\*

Earnest Lee Brown, federal prisoner # 15103-042, appeals the district court's denial of his motion for compassionate release under the First Step Act. 18 U.S.C. § 3582(c)(1)(A)(i). He argues that he has shown extraordinary and compelling reasons warranting compassionate release in

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-60958

light of the COVID-19 pandemic, asserting, inter alia, that he is at higher risk of illness from COVID-19 based on his medical conditions, namely hypertension and hyperlipidemia, and that other factors, such as the non-violent nature of his offense, the percentage of his sentence he has already served, and his post-sentencing conduct, weigh in favor of relief. He also argues, in reply to the Government's brief, that the district court failed to consider the sentencing factors of 18 U.S.C. § 3553(a).

The district court denied Brown's motion without the benefit of intervening Fifth Circuit authority. We therefore VACATE the district court's order and REMAND for further consideration in light of *United States v. Shkambi*, 993 F.3d 388 (5th Cir. 2021). Insofar as Brown moves this court to reduce his sentence to time served, the motion is DENIED.