

[DO NOT PUBLISH]

In the  
United States Court of Appeals  
For the Eleventh Circuit

---

No. 21-11404

Non-Argument Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

*versus*

XZAVIOUS MONTREZ BROWN,

Defendant-Appellant.

---

Appeal from the United States District Court  
for the Northern District of Georgia  
D.C. Docket No. 1:93-cr-00377-TWT-JED-1

---

Before BRANCH, LUCK, and BRASHER, Circuit Judges.

PER CURIAM:

Xzavious Brown appeals the denials of his motions for compassionate release under 18 U.S.C. section 3582(c)(1)(A). We affirm.

#### **FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

In 1995, after Brown waived counsel and proceeded pro se, he was convicted of armed bank robbery and sentenced to forty-seven years' imprisonment. Pending trial, Brown attempted to escape by locking correctional officers in a cell but was thwarted after a struggle. For assaulting and kidnapping the correctional officers, Brown received a life sentence running consecutively to the bank robbery sentence.

In 2020, Brown moved for compassionate release under the First Step Act, arguing that extraordinary and compelling circumstances existed because of his declining health: conjunctivitis had dimmed his vision and he suffered from severe knee and joint pain. Brown also argued that he had “aged out of crime”; had received a longer sentence than his codefendants; and had suffered physical and sexual abuse while in prison. The district court denied Brown's compassionate release motion because he had been convicted of serious crimes, had tried to escape, and had violated thirty prison disciplinary rules since his convictions—including for threatening bodily harm, assault, and possessing a deadly weapon—and

21-11404

Opinion of the Court

3

therefore the section 3553(a) factors weighed against release. Brown did not appeal.

Months later, Brown filed two more motions for compassionate release. The second motion—a single page letter—asked for mercy from the district court. The third motion asked to amend the second motion and argued that the First Step Act of 2018 was an extraordinary and compelling reason warranting resentencing and that the district court should not have allowed him to waive his right to counsel in his 1995 bank robbery trial. The district court denied both “for the reasons set forth” in its first order. Brown appealed the denial of his second and third compassionate release motions.

#### STANDARD OF REVIEW

We review a district court’s denial of a prisoner’s 18 U.S.C. section 3582(c)(1)(A) motion for abuse of discretion. *United States v. Harris*, 989 F.3d 908, 911 (11th Cir. 2021). “A district court abuses its discretion if it applies an incorrect legal standard, follows improper procedures in making the determination, or makes findings of fact that are clearly erroneous.” *Id.* (quotation marks omitted).

#### DISCUSSION

Brown makes two arguments on appeal. First, he contends that the district court erred by summarily denying his second and third motions for compassionate release without addressing their merits. Second, he argues that, at his trial, he did not knowingly, intelligently, and voluntarily waive his right to counsel, which he

contends is an extraordinary and compelling reason that justifies relief.

District courts lack the inherent authority to modify a term of imprisonment but may do so to the extent authorized in section 3582(c). 18 U.S.C. § 3582(c); *United States v. Jones*, 962 F.3d 1290, 1297 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 2635 (2021). To grant a reduction under section 3582(c)(1)(A), district courts must find that three necessary conditions are met: “[1] support in the [section] 3553(a) factors, [2] extraordinary and compelling reasons, and [3] adherence to [sentencing guideline section] 1B1.13’s policy statement.” *United States v. Tinker*, 14 F.4th 1234, 1237–38 (11th Cir. 2021).

Here, the district court found that the section 3553(a) factors weighed against release. Brown has not challenged this finding on appeal. “When an appellant fails to challenge properly on appeal one of the grounds on which the district court based its judgment, he is deemed to have abandoned any challenge of that ground, and it follows that the judgment is due to be affirmed.” *United States v. King*, 751 F.3d 1268, 1277 (11th Cir. 2014) (quotation marks and alteration omitted). Because Brown hasn’t challenged one of the district court’s grounds to deny his motions, we affirm the district court’s decision.

Brown’s arguments to the contrary are meritless. First, the district court did not “summarily den[y]” his motions. “A court must explain its sentencing decisions adequately enough to allow for meaningful appellate review.” *United States v. Giron*, 15 F.4th

21-11404

Opinion of the Court

5

1343, 1345 (11th Cir. 2021). Here, the district court explained it was denying Brown’s motions “for the same reasons” it had in its first order—that the section 3553(a) factors weighed against Brown’s release. By referencing its prior order, the district court provided sufficient information for us to meaningfully review its decision.

And second, Brown’s argument—that he should not have been allowed to represent himself, which is an extraordinary and compelling circumstance—is not enough to reverse the district court’s compassionate release decision. To obtain compassionate release, Brown had to show that all three requirements in section 3582(c)(1)(A) were satisfied, including that the section 3553(a) factors weighed in his favor. *Tinker*, 14 F.4th at 1237. “Absence of even one” condition forecloses relief. *Id.* Thus, even if improper self-representation was an extraordinary and compelling circumstance—it isn’t, because it is not one of the extraordinary and compelling circumstances described in the section 1B1.13 policy statement, *see United States v. Bryant*, 996 F.3d 1243, 1263 (11th Cir. 2021), but even if it was—we would still have to affirm the district court’s order because Brown hasn’t challenged the conclusion that the section 3553(a) factors weighed against compassionate release. As we’ve said, Brown’s failure to challenge one of the district court’s grounds for denying his motions means the district court’s judgment must be **AFFIRMED**.