[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 21-11583
Non-Argument Calendar

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D.C. Docket No. 9:17-cr-80080-BB-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CORRY E. PEARSON,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Florida

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(August 20, 2021)

Before WILSON, ROSENBAUM, and JILL PRYOR, Circuit Judges.

PER CURIAM:

In 2021, Corry Pearson, a federal prisoner serving a total sentence of 124 months, moved for a sentence reduction under 18 U.S.C.§ 3582(c)(1)(A)(i). Under

that provision, a district court may reduce a sentence "after considering the factors set forth in [18 U.S.C. § 3553(a)] to the extent they are applicable," if the court finds that "extraordinary and compelling reasons warrant such a reduction" and that the reduction is consistent with the applicable policy statement in U.S.S.G. § 1B1.13. 18 U.S.C. § 3582(c)(1)(A)(i); *see United States v. Bryant*, 996 F.3d 1243, 1248 (11th Cir. 2021).

In his motion, Pearson sought a sentence reduction on the ground that the district court did not properly calculate the loss amount associated with his offenses, resulting in an "overly harsh" sentence that is disproportionate to the sentence of a codefendant. He further asserted that the court had discretion to consider extraordinary and compelling reasons beyond those expressly enumerated in § 1B1.13, that he was not a danger to society, and that the § 3553(a) factors, including his rehabilitative efforts and low risk of recidivism, supported a sentence reduction. He also briefly referenced COVID-19. The government opposed a sentence reduction on several grounds, including that Pearson had not presented an extraordinary and compelling basis for a sentence reduction.

The district court denied Pearson's motion. While the court concluded that it was not bound by § 1B1.13, it reasoned that Pearson failed to present extraordinary and compelling reasons for a sentence reduction because "the basis for his request is not related even remotely to the relevant personal considerations set forth in

§ 1B1.13," such as age, medical conditions, or family circumstances. Because Pearson failed to establish an extraordinary and compelling reason for a sentence reduction, the court "d[id] not address the § 3553(a) factors" or "whether [Pearson] poses a danger to the safety of others or to the community.

On appeal, Pearson says that the district court abused its discretion in denying his § 3582(c)(1)(A)(i) motion because it relied too heavily on § 1B1.13 and failed to consider the § 3553(a) factors, such as his rehabilitation, low risk of recidivism, and a sentencing disparity between his sentence and that of a codefendant. In lieu of filing a response brief, the government has moved for summary reversal of the district court's order, stating that the court abused its discretion when it denied Pearson's motion without considering the § 3553(a) factors as required by our recent decision in *United States v. Cook*, 998 F.3d 1180 (11th Cir. 2021).

We review a district court's denial of a prisoner's § 3582(c)(1)(A) motion for an abuse of discretion. *United States v. Harris*, 989 F.3d 908, 911 (11th Cir. 2021).

A district court has no inherent authority to modify a defendant's sentence and may do so "only when authorized by a statute or rule." *United States v. Puentes*, 803 F.3d 597, 605–06 (11th Cir. 2015). As amended by the First Step Act of 2018, § 3582(c)(1)(A) permits a district court to grant a defendant's motion and "reduce the term of imprisonment . . . , after considering the factors set forth in [18 U.S.C. § 3553(a)] to the extent that they are applicable, if it finds that . . . extraordinary and

compelling reasons warrant such a reduction." 18 U.S.C. § 3582(c)(1)(A)(i); *see* Pub. L. No. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018). Before the First Step Act, only the Director of the Bureau of Prisons ("BOP") could move for such a reduction. *Bryant*, 996 F.3d at 1250. Regardless of the movant, any reduction must be "consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(1)(A).

While this case was pending on appeal, we held in *Bryant* that the policy statement in § 1B1.13 is "applicable" to all motions filed under § 3582(c)(1)(A), including those filed by prisoners, even though § 1B1.13 was promulgated before the First Step Act and refers to only a sentence reduction upon a motion from the BOP Director. *Bryant*, 996 F.3d at 1252. Section 1B1.13's commentary defines several circumstances presenting "extraordinary and compelling reasons," which are based on the defendant's serious medical conditions, age, or family circumstances. *See* U.S.S.G. § 1B1.13, cmt. n.1(A)–(C). The commentary also contains a catch-all for "other reasons," but we held in *Bryant* that "other reasons" are limited to those determined by the BOP, not the courts. *Bryant*, 996 F.3d at 1262. So, courts are required to follow § 1B1.13 when resolving motions under § 3582(c)(1)(A).

In addition to determining whether a movant has offered extraordinary and compelling reasons and whether a reduction would be consistent with the policy statement in § 1B1.13, a district court generally must consider "all applicable"

§ 3553(a) factors when it grants or denies a motion for compassionate release. *Cook*, 998 F.3d at 1184 ("[A] district court abuses its discretion when it decides a motion under § 3582(c)(1)(A)(i) without considering the applicable statutory factors."). A district court is not required to articulate its findings or reasoning in great detail, but when we evaluate a § 3582(c)(1)(A)(i) motion, we "cannot engage in meaningful appellate review and must vacate and remand" if the record does not reflect that the district court considered the applicable factors. *Id.* at 1185–86 (quotation marks omitted).

In its motion for summary reversal, the government says that *Cook* controls the outcome of this case and requires that we summarily vacate the denial of Pearson's motion because the district court declined to consider the § 3553(a) factors. It requests that we remand for the court to expressly consider the applicable § 3553(a) factors "as now required by *Cook*." Although we agree with the government that summary disposition is appropriate, we deny the government's motion for summary *reversal* and instead, acting *sua sponte*, summarily *affirm* the district court's order.

In *Cook*, we held that the district court did not provide a sufficient basis for review where it wrote, "The defendant's age (47 years) and ailments (hypertension, obesity, and Latent Tuberculosis) are not extraordinary and compelling circumstances for a reduction to 'time served.'" *Cook*, 998 F.3d at 1183. But in

*Cook*, unlike here, the government had conceded that the prisoner's medical conditions were "extraordinary and compelling circumstances" that made him eligible for relief, and the district court's order was ambiguous as to whether the motion was being denied on eligibility or discretionary grounds. *Id.* at 1185. In *Cook*, therefore, we were called upon to review a discretionary judgment to grant or deny the motion of an eligible prisoner, which required consideration of the § 3553(a) factors. *See id.* at 1184–85. The question for us was only whether the court had sufficiently "considered the applicable § 3553(a) factors" for us to review its weighing of those factors. *Id.* We found nothing in the court's order "to "suggest that the court considered, balanced, or weighed any" of those factors, and we explained that we could not weigh them for the first time on appeal. *Id.* at 1185.

Here, in contrast to *Cook*, we may engage in meaningful appellate review because the district court clearly and, according to our now-binding precedent, correctly concluded that Pearson was ineligible for relief (as the government had argued in opposition to the motion). The court explained that Pearson did not present an extraordinary and compelling reason for a sentence reduction because "the basis for his request"—which was effectively a collateral attack on his sentence—"is not related even remotely to the relevant personal considerations set forth in § 1B1.13," such as age, medical conditions, or family circumstances. Pearson's argument that § 1B1.13 is not an "applicable" policy statement is foreclosed by *Bryant*, so the

district court was required to follow its terms when resolving his motion and could not develop "other reasons" on its own. *See Bryant*, 996 F.3d at 1262; 18 U.S.C. § 3582(c)(1)(A). And we agree with the court that Pearson failed to present any ground for a sentence reduction that would even arguably fall within § 1B1.13.

Because Pearson failed to present an "extraordinary and compelling reason" within the meaning of § 1B1.13, he did not establish that he was eligible for a sentence reduction under § 3582(c)(1)(A)(i). In these circumstances, remanding for the court to consider the § 3553(a) factors, such as Pearson's rehabilitative efforts and his low risk of recidivism, would be unnecessary because the court lacked the discretion to grant or deny a reduction without an extraordinary and compelling reason to do so. *See* 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13. In other words, these § 3553(a) factors were not "applicable" to whether Pearson presented an extraordinary and compelling reason for a sentence reduction. *See* 18 U.S.C. § 3582(c)(1)(A) (requiring consideration of the § 3553(a) factors "to the extent they are applicable"). We do not read *Cook* to require a remand for consideration of the § 3553(a) factors where only a prisoner's eligibility is at issue.

For these reasons, we conclude that summary disposition is appropriate because "the result is clear as a matter of law so that there can be no substantial question as to the outcome." *Brown v. United States*, 942 F.3d 1069, 1076 n.6 (11th Cir. 2019). Pearson did not present any ground for a sentence reduction under

§ 3582(c)(1)(A)(i) that even approached an "extraordinary and compelling reason" as defined in the binding policy statement, § 1B1.13. *See* 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13; *see Bryant*, 996 F.3d at 1262. It is therefore "clear as a matter of law" that the district court correctly denied Pearson's § 3582(c)(1)(A)(i) motion. *See Brown*, 942 F.3d at 1076 n.6.

For these reasons, we **DENY** the government's motion for summary reversal, and instead we summarily **AFFIRM** the district court's order denying Pearson's motion for compassionate release.