NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-14196
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HAROLD THORNTON,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:97-cr-00082-RAL-SPF-1

Before JILL PRYOR, LUCK, and BRASHER, Circuit Judges.

PER CURIAM:

Harold Thornton appeals the denial of his third compassionate release motion under 18 U.S.C. section 3582(c)(1)(A). After careful review, we affirm.

I.

A jury found Thornton guilty of possessing and distributing cocaine. The district court consolidated his sentencing hearing with another case where Thornton was charged with receipt of a pipe bomb with the intent to kill, injure, or intimidate. In the drug case, Thornton made two controlled purchases, and when police later arrested him, they found even more cocaine. In the explosives case, after receiving a tip and obtaining a search warrant, police found a gun, a bomb, money, drugs, and drug paraphernalia at Thornton's home. Thornton's girlfriend told police that she believed he was selling bombs. She also told police that Thornton threatened to "blow the face off" a man who had done a shoddy paint job on his car. Thornton had a long list of prior convictions, including for battery, robbery, dealing in stolen property, carrying a concealed weapon, and cocaine possession. The district court sentenced him to three concurrent life sentences, and we affirmed those sentences.

In 2019, Thornton moved for compassionate release. After a hearing, the district court denied the motion. Although the court found that Thornton was eligible for a sentence reduction, it exercised its discretion to deny the motion because Thornton was a danger to the community and the 18 U.S.C. section 3553(a) factors weighed against release. We affirmed. *United States v. Thornton*, 825 Fed. App'x 738 (11th Cir. 2020).

After the appeal, Thornton moved twice more for compassionate release—once in 2021 and another time in 2023. The district court denied the 2021 motion because, "although he was eligible for a sentence reduction," for the same reasons the court gave for denying the 2019 motion, Thornton remained a danger "to the community in light of his extensive and violent criminal record, as well as his threats to prison officials." And the district court denied the 2023 motion for the same reasons it gave for denying the earlier ones.

Thornton appeals the denial of his 2023 compassionate release motion.

II.

We review de novo whether a prisoner is eligible for compassionate release. *United States v. Giron*, 15 F.4th 1343, 1345 (11th Cir. 2021). After eligibility is established, we review the denial of a compassionate release motion for an abuse of discretion. *Id.* "A district court abuses its discretion if it applies an incorrect legal standard, follows improper procedures in making its determination, or makes clearly erroneous factual findings." *Id.*

III.

"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." *Id.* (citation modified). Section 3582(c)(1)(A) is such a statute. It authorizes a reduction in a prisoner's sentence for compassionate release where: (1) the section 3553(a) factors favor release; (2) there are extraordinary and compelling reasons for doing

so; and (3) the prisoner is not a danger to the safety of any other person or to the community. *United States v. Tinker*, 14 F.4th 1234, 1237 (11th Cir. 2021). All conditions must be met before a court may grant compassionate release. *Id.* "Because all three conditions . . . are necessary, the absence of even one would foreclose a sentence reduction." *Id.* at 1237–38.

Here, the district court found that two conditions were absent—Thornton was a danger to others and the community, and the section 3553(a) factors did not favor release. Based on the record, this was not an abuse of discretion.

Thornton's criminal record supported the district court's dangerousness finding. Before his current stint in prison, Thornton had a violent criminal history, starting at eleven years old with an aggravated assault adjudication. At seventeen, he was charged as an adult and sentenced to probation after an altercation with a bailiff. Thornton served five years in state prison because he violated the probation. As an adult, Thornton had convictions for another battery of a law enforcement officer, robbery, dealing in stolen property, carrying a concealed weapon, and a slew of drug offenses. By the time of his sentencing in these cases, he had twenty-three criminal history points.

His medical and psychiatric records also supported the district court's dangerousness finding. Thornton was evaluated by mental health professions in 1992 and then again in 1996. The mental health professionals found that he "had very little conscience or

very little regard for others." Thornton met the criteria for "anti-social personality disorder and narcissistic personality disorder" because he could not "conform to social norms with respect to lawful behavior," he would try "to manipulate others to achieve [his] own needs," and he would "exploit others for [his] own gain."

The facts of his case, moreover, showed that Thornton was a danger to the community. He was convicted of receiving a pipe bomb, knowing that it would be used to kill, injure, or intimidate another person. Thornton kept explosive and destructive devices in his home and was believed to be selling explosives to others. He was going to "blow the face off" the man who painted his car and threatened to use explosives against his cousin if the cousin testified against Thornton.

Finally, Thornton's actions since he's been in prison show that he remains a danger to others. He's been cited twenty-three times for disciplinary violations, including threatening bodily harm, possessing a dangerous weapon, fighting, assaults, and refusing to obey orders.

For the same reasons, the district court did not abuse its discretion in finding that the section 3553(a) factors weighed in favor of denying compassionate release.[1] Receiving a pipe bomb knowing and intending that it will kill, injure, or intimidate another is a

[1] Those factors are: (1) the nature and circumstances of the offense and the defendant's history and characteristics; (2) the need for the sentence to reflect the seriousness of the offense, afford adequate deterrence, and protect the pub-

serious offense. Thornton had a deep history of lawless behavior going back to when he was eleven. That's why his guideline range was life. The courts tried lesser sentences like probation and a term-of-years in prison, but they did not deter Thornton. Only his current sentence has deterred him and protected the public from his crime spree. Still, Thornton continues to violate the rules while in custody.

Thornton raises three arguments in response. First, he contends that extraordinary and compelling reasons support compassionate release. But we don't have to reach the extraordinary-and-compelling-reason condition for compassionate release because the district court did not abuse its discretion in finding the other two conditions were not met. We don't need to analyze all three conditions if the prisoner has not met his burden as to the others. *Cf. Giron*, 15 F.4th at 1347 ("When denying a request for compassionate release, a district court need not analyze the [section] 3553(a) factors if it finds either that no extraordinary and compelling reason exists or that the defendant is a danger to the public.").

Second, Thornton asserts that the district court erred in its weighing of section 3553(a) because it did not consider each sentencing factor. But the district court explained that it considered "the nature and circumstances of the crimes he's committed, . . .

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lic; (3) the kinds of sentences available; (4) the sentencing guidelines; (5) relevant policy statements; (6) the need to avoid unwarranted sentence disparities among similar defendants; and (7) the need to provide restitution to any victims of the offense. *See* 18 U.S.C. § 3553(a).

his history and characteristics, . . . the need to deter future criminal conduct and protect the public[] and promote respect for the law" in exercising its discretion. That's most of the section 3553(a) factors. *Compare* 18 U.S.C. § 3553(a). If the district court didn't specifically mention one of the other factors, it didn't have to. *See Tinker*, 14 F.4th at 1241 ("[D]istrict courts needn't address each of the [section] 3553(a) factors or all of the mitigating evidence. . . . A sentence may be affirmed so long as the record indicates that the district court considered a number of the factors such as the nature and circumstances of the offense, the defendant's history of recidivism, and the types of sentences available." (citation modified)).

And third, Thorton argues that the prison records that formed the basis for the district court's finding that he continued to threaten people in prison are not accurate. But Thorton made the same argument in his 2019 motion, which the district court rejected and we affirmed. He can't rehash the same argument here. *Cf. Ragsdale v. Rubbermaid, Inc.*, 193 F.3d 1235, 1238 (11th Cir. 1999) ("Res judicata bars the filing of claims which were raised or could have been raised in an earlier proceeding.") .

IV.

For these reasons, we affirm the denial of Thornton's third compassionate release motion.

AFFIRMED.