

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10756
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JACQUES HERNES TELCY,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 0:08-cr-60207-WPD-1

Before LAGOA, ABUDU, AND ANDERSON, Circuit Judges.

PER CURIAM:

Jacques Telcy, a federal prisoner proceeding pro se, appeals from the district court's September 23, 2024, order denying his mo-

tion for compassionate release and February 18, 2025, order denying his motion for reconsideration. The government filed a motion to dismiss Telcy’s appeal in part and for summary affirmance in part. Telcy later filed a motion to submit an untimely response to the government’s motion to dismiss in part and for summary affirmance in part. As an initial matter, Telcy’s motion is GRANTED because his response’s contents do not affect this case’s outcome.

I.

The government’s motion to dismiss in part is GRANTED because Telcy’s notice of appeal, deemed filed February 28, 2025, is untimely to appeal from the district court’s September 23, 2024, order. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (explaining that, under the prison mailbox rule, a notice of appeal mailed by a pro se prisoner through the prison mail system is deemed filed on the date that they deliver it to prison authorities for mailing); Fed. R. App. P. 4(c)(1), (b)(1)(A) (providing that, in criminal cases, a defendant must file a notice of appeal within 14 days after the entry of the order or judgment being appealed); *United States v. Fair*, 326 F.3d 1317, 1318 (11th Cir. 2003) (explaining that motions for sentence reduction under 18 U.S.C. § 3582(c)(2) are “criminal in nature”). Additionally, Telcy’s notice of appeal was filed more than 30 days after the expiration of the initial 14-day appeal period, so he is not eligible for an extension of time. *See* Fed. R. App. P. 4(b)(4) (providing that the district courts can “extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by . . . Rule 4(b)); *United States v. Lopez*, 562 F.3d 1309, 1314 (11th Cir. 2009).

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Further, Telcy's motion for reconsideration is deemed filed on December 31, 2024, which was too late for it to toll the time to file a notice of appeal. *See United States v. Vicaria*, 963 F.2d 1412, 1414 (11th Cir. 1992) (explaining that a defendant must file a motion for reconsideration within the deadline for filing a notice of appeal in a criminal case to extend his time to file a notice of appeal); *Williams v. McNeil*, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009) (explaining that a prisoner's motion is deemed filed on the day that he delivers it to prison officials); *Houston*, 487 U.S. at 276. Accordingly, because the government raised the issue of timeliness, we must apply Rule 4(b)(1)(A) and dismiss Telcy's appeal from the district court's September 23, 2024, order. *See Lopez*, 562 F.3d at 1314.

II.

As for the February 18, 2025, order denying Telcy's motion for reconsideration, from which he timely appealed, the government's motion for summary affirmance in part is GRANTED because the government's position is clearly correct as a matter of law. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969) (explaining that summary disposition is appropriate where, among other reasons, "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case").

Pro se filings are liberally construed. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). We "may affirm for any reason supported by the record, even if not relied upon by the district court." *United States v. Al-Arian*, 514 F.3d 1184, 1189 (11th

Cir. 2008) (quotation marks omitted). An appellant abandons a claim where he makes it only by passing reference or in a perfunctory manner without authority or argument in support. *United States v. Smith*, 967 F.3d 1196, 1204 n.5 (11th Cir. 2020).

We review de novo whether a defendant is eligible for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A). *United States v. Giron*, 15 F.4th 1343, 1345 (11th Cir. 2021). After eligibility is established, we will review the district court’s denial of a prisoner’s § 3582(c)(1)(A) motion for an abuse of discretion. *Id.* We review the denial of a motion for reconsideration for abuse of discretion. *United States v. Simms*, 385 F.3d 1347, 1356 (11th Cir. 2004).

Although the Federal Rules of Criminal Procedure do not expressly authorize a motion for reconsideration of a district court order, we have held that “[a] motion for reconsideration in a criminal case must be filed within the period of time allotted for filing a notice of appeal in order to extend the time for filing the notice of appeal.” *Vicaria*, 963 F.2d at 1413-14.

In civil cases, we have held that a party cannot use a motion for reconsideration “to relitigate old matters, raise argument[s] or present evidence that could have been raised prior to the entry of judgment.” *Michael Linet, Inc. v. Vill. of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005) (citations omitted). A party’s request that a district court re-examine an unfavorable ruling is not a valid ground to grant a motion for reconsideration. *Jacobs v. Tempur-Pedic Int’l, Inc.*, 626 F.3d 1327, 1344 (11th Cir. 2010).

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Here, Telcy has not abandoned his challenge to the district court's denial of his motion for reconsideration if we liberally construe his appellate brief and untimely response's arguments. *See Smith*, 967 F.3d at 1204 n.5; *Tannenbaum*, 148 F.3d at 1263. Additionally, it is unclear whether his filing of a motion for reconsideration over three months after the court's prior order was untimely because we have not held in a published opinion what constitutes the statute of limitations for filing a motion for reconsideration in a criminal case. Regardless, the government's position regarding summary affirmance is clearly correct as a matter of law because Telcy's motion for reconsideration merely reiterated his motion for compassionate release's prior arguments that he no longer qualified for enhanced penalties under the Armed Career Criminal Act, and the 18 U.S.C. § 3553(a) factors merited relief. *See Michael Linet, Inc.*, 408 F.3d at 763; *Jacobs*, 626 F.3d at 1344.

Accordingly, because the government's position is clearly correct as a matter of law so that there can be no substantial question as to the outcome of this case, we GRANT the government's motion for summary affirmance in part. *See Groendyke*, 406 F.2d at 1162.

DISMISSED IN PART, AFFIRMED IN PART.