

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**April 5, 2022**

**Christopher M. Wolpert**  
**Clerk of Court**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FREDERICO RAMSEY,

Defendant - Appellant.

No. 21-3147  
(D.C. No. 2:09-CR-20046-JWL-4)  
(D. Kan.)

---

**ORDER AND JUDGMENT\***

---

Before **MORITZ, BALDOCK**, and **EID**, Circuit Judges.\*\*

---

Frederico Ramsey, a pro se litigant and inmate at the United States Medical Center for Federal Prisoners in Springfield, Missouri (FCP), filed this action in the federal district court in the District of Kansas, moving for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). He did so on two grounds. First, he claimed a medical reason for his early release, and second, he made a claim for sentence reduction pursuant to the decision in *Burrage v. United States*, 571 U.S. 204 (2014)

---

\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

\*\* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

(holding that a defendant cannot be liable under the penalty enhancement provision under the Controlled Substances Act 21 U.S.C. § 841(b)(1)(C) unless the narcotics distributed by the defendant are an independently sufficient but-for cause of the death or serious injury).

The district court denied relief, and Ramsey appealed. Ramsey alleges two errors by the district court. First, he claims the court incorrectly found that he failed to show extraordinary and compelling circumstances regarding an increased risk to his health and safety from the COVID-19 pandemic. Second, he argues that he would have been entitled to a sentence reduction under *Burrage*, and that the court's denial of his claim was in error. We now affirm.

### **I. Background**

In 2010, Frederico Ramsey was convicted of four charges related to the possession and distribution of heroin. Among these was a conspiracy charge where a drug-death resulted. In July 2011, he was sentenced to a prison term of 292 months. Ramsey appealed from his convictions, and, in 2013, we affirmed both his convictions and sentence. *United States v. Ramsey*, 830 F. App'x. 584, 584-85 (10th Cir. 2020), *cert. denied*, 141 S. Ct. 2553 (2021).

On December 4, 2014, Ramsey filed a pro se motion, pursuant to 28 U.S.C. § 2255, to vacate his sentence, based on twenty-two ineffective assistance of counsel claims. In a September 16, 2015 order, the district court denied nearly all his claims, but took three under advisement. Eventually, in November 2019, the district court

denied the three remaining claims. Ramsey petitioned this court for a Certificate of Appealability, which we declined to grant. *Id.*

In 2021, Ramsey moved pro se for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). Ramsey sought to be released from prison and an immediate reduction in his sentence to time served. He claimed an increased risk from the ongoing COVID-19 pandemic, as well as seizures and bipolar disorder. In addition, Ramsey claimed that if sentenced today he would have received a lesser sentence, consistent with the Supreme Court’s holding in *Burrage v. United States*. The district court denied relief. *United States v. Ramsey*, No. 09-20046-04-JWL, 2021 WL 3421581 (D. Kan. Aug. 5, 2021).

## II. Discussion

We review for an abuse of discretion a district court decision to deny a reduction of sentence under 18 U.S.C. § 3582(c)(2). *United States v. Osborn*, 679 F.3d 1193, 1195 (10th Cir. 2012). The trial court explained that, “[a]s a general matter, a federal court may not alter a term of imprisonment once imposed, but Section 3582(c) provides one exception to that general rule of finality. *See United States v. McGee*, 992 F.3d 1035, 1041 (10th Cir. 2021).” *United States v. Ramsey*, at \*2. That statute provides that a court consider the applicable factors set forth in 18 U.S.C. § 3553(a) and reduce a term of imprisonment if it finds that “extraordinary and compelling reasons warrant such a reduction.” 18 U.S.C. § 3582(c)(1)(A)(i).

The district court concluded that Ramsey’s arguments based on medical factors are meritless, chiefly because the defendant has shown no evidence of a

particular Covid risk to himself. *United States v. Ramsey*, at \*2 (Ramsey “has not established an extraordinary and compelling reason for his immediate release arising from an increased risk of serious harm from COVID-19”). We agree.

All evidence indicates Ramsey’s underlying medical conditions are not a present issue, as “his medical records indicate that his seizure disorder is in remission, with his last seizure having occurred over 20 years ago, and there is no documentation of bipolar disorder or other mental infirmity that would increase defendant’s risk of harm from the virus.” *United States v. Ramsey*, at \*3. Finally, the “defendant has already tested positive once for the virus without experiencing any symptoms.” *Id.* at \*4. Ramsey give us no reason to question these conclusions. These factors dispel Ramsey’s claim that the pandemic poses a particular threat to him. He has therefore failed to show extraordinary and compelling reasons for release based on his medical conditions.

In his submissions, Ramsey also relies heavily on *Burrage v. United States*, but *Burrage* is easily distinguishable from Ramsey’s fact pattern. *Burrage* was specifically about when the “drug distributed by the defendant is not an independently sufficient cause of the victim's death or serious bodily injury.” *Id.* at 218. Here, all testimony at the trial pointed to the conclusion that the victim’s death was directly caused solely by the drug the defendant distributed. *Burrage* does not apply.

### III. Conclusion

For the foregoing reasons, we affirm the district court. We also address Ramsey’s motion to proceed in forma pauperis. Ramsey fails to make a “reasoned, nonfrivolous argument on the law and facts in support of the issues raised in the action.” *Lister v. Dep’t of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). As a result, we deny his motion to proceed in forma pauperis.

Entered for the Court

Allison H. Eid  
Circuit Judge