

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 11, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLEONE CECELIA FRIDAY,

Defendant - Appellant.

No. 23-8033
(D.C. No. 1:22-CR-00015-ABJ-2)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **HARTZ, BALDOCK, and ROSSMAN**, Circuit Judges.**

In late 2021, Defendant Cleone Cecelia Friday lured her former boyfriend to a remote location on the Wind River Indian Reservation where her then-current boyfriend was lying in wait. Defendant’s current boyfriend stabbed the ex-boyfriend twice and kicked him in the face and head with steel-toed boots. As a result, Defendant pleaded guilty to assault resulting in serious bodily injury in violation of 18 U.S.C. § 113(a)(6). The district court sentenced Defendant to 41 months’

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 to honor the parties’ request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument.

imprisonment, the low end of the advisory guideline range. After 102 days of incarceration, Defendant, appearing pro se, moved for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). As grounds for her release, Defendant cited (1) family circumstances, (2) health risks, and (3) limited rehabilitation opportunities while incarcerated. In a thorough 18-page order, the district court denied Defendant's motion because she had not provided an extraordinary or compelling reason for compassionate release. The court further explained that a consideration of the § 3553(a) factors would not warrant Defendant's early release.

In the aggregate, the Court finds that the Defendant has not provided an extraordinary or compelling reason for compassionate release or sentence reduction. None of § 1B1.13's four categories support Defendant's petition. *See* U.S.S.G. § 1B1.13, App. Note 1. Perhaps most notably, this Court sentenced the Defendant to the lowest end of her advisory guideline range mere months ago. She now stands before the Court less than eight months into her 41-month sentence. When the Court imposed that sentence, in lieu of the Defendant's submission for time served or probation, it did so to underscore the seriousness of the Defendant's offense. The Defendant cannot divert the Court's attention from the hard facts of this case: she played a pivotal role in a violent, premeditated assault that could have resulted in the victim's death. Simply put, an eight-month sentence—waiving nearly three years of incarceration—would not reflect the gravity of the Defendant's offense, need for deterrence, or protection of the public.

United States v. Friday, No. 22-CR-15-ABJ-2, Order at 17 (D. Wyo. April 18, 2023) (ECF No. 90). This appeal followed. Exercising jurisdiction under 28 U.S.C. § 1291, we summarily affirm.

We review the district court's decision to deny compassionate release for an abuse of discretion. *United States v. Hemmelgarn*, 15 F.4th 1027, 1031 (10th Cir. 2021). Under such standard, we will uphold the district court's ruling unless it relied

on an incorrect conclusion of law or clearly erroneous finding of fact. *Id.* Defendant’s appellate brief is essentially a rehash of the arguments she raised before the district court. To assist her cause, Defendant points to proposed amendments to the guideline used to determine “extraordinary and compelling reasons” justifying a reduction in sentence. But those are just proposals, not the law.¹ Because the district court did not rely on a faulty premise of law or a clearly erroneous finding of fact, we discern no reversible error in the district court’s order. Where a district court accurately analyzes a motion for compassionate release, we see no useful purpose in writing a length. Accordingly, we affirm for substantially the same reasons set forth in the district court’s order denying Defendant’s motion for compassionate release.

AFFIRMED.

Entered for the Court

Bobby R. Baldock
United States Circuit Judge

¹ Specifically, Defendant relies on a proposed amendment to the “Family Circumstances” category under U.S.S.G. § 1B1.13(b)(3)(D). This amendment would allow a defendant to establish extraordinary or compelling circumstances by showing the incapacitation of an immediate family member when the defendant would be the only available caregiver. The proposed amendment includes a definition for “immediate family member” as “grandchild, grandparent, or sibling of the defendant.”