

BLD-179

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1839

UNITED STATES OF AMERICA

v.

ELVIS ORTIZ, also known as KING ELVIS,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal Action No. 2:05-cr-00044-010)
District Judge: Honorable Nitza I. Quiñones Alejandro

Submitted on Appellee's Motion for Summary Action
Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
August 6, 2026

Before: KRAUSE, MATEY, and BOVE, *Circuit Judges*

(Opinion filed: August 28, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Elvis Ortiz, proceeding pro se, appeals the District Court's denial of his motion for compassionate release. The Government has moved for summary action. For the following reasons, we will summarily affirm the District Court's judgment.

Ortiz is serving a life sentence for drug and racketeering offenses. In 2024, he filed a motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), claiming "extraordinary and compelling" reasons for release were provided by recent nonretroactive amendments to 21 U.S.C. § 841(b)(1)(A). The District Court denied the motion. Citing our decision in *United States v. Rutherford*, 120 F.4th 360, 380 (3d Cir. 2024), the District Court explained that "nonretroactive changes made in the First Step Act cannot constitute extraordinary and compelling reasons justifying a reduction in sentence." ECF 1242 at 6. Ortiz appealed.

We have jurisdiction under 28 U.S.C. § 1291. We review the District Court's decision for abuse of discretion and will not disturb that decision absent "a definite and firm conviction that [the District Court] committed a clear error of judgment." *United States v. Pawlowski*, 967 F.3d 327, 330 (3d Cir. 2020). We may summarily affirm the District Court's decision if the appeal fails to present a substantial question. *See* 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

The District Court did not abuse its discretion in determining that Ortiz failed to show "extraordinary and compelling reasons" warranting a sentence reduction. 18 U.S.C.

§ 3582(c)(1)(A)(i).¹ Ortiz argues that he is eligible for a sentence reduction because his sentence is “unusually long” under § 1B1.13(b)(6) of the United States Sentencing Guidelines due to nonretroactive changes made in the First Step Act to the mandatory minimum sentence provisions in 21 U.S.C. § 841(b)(1). More specifically, Section 401 of the First Step Act reduced the pertinent mandatory minimum from life imprisonment to 25 years of imprisonment, *see* 21 U.S.C. § 841(b)(1)(A), and narrowed the range of prior convictions that qualify as predicate offenses triggering higher mandatory minimums for certain drug offenses.

However, § 401(c) explicitly states that “[t]his section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, *if a sentence for the offense has not been imposed as of such date of enactment.*” First Step Act § 401(c), 132 Stat. 5194, 5221 (Dec. 21, 2018) (emphasis added). In other words, the amendment Ortiz relies on is nonretroactive and does not apply to sentences that had already been imposed as of the First Step Act’s enactment on December 21, 2018. Ortiz was sentenced long before that date, and the Supreme Court has now made it clear that such nonretroactive amendments cannot constitute extraordinary and compelling reasons for compassionate release. *See Rutherford v. United States*, 608 U.S. ----, 146 S. Ct. 1320, 1330 (2026) (“When Congress declines to

¹ In his response to the Government’s motion for summary action, Ortiz also points to his medical conditions, personal history, and rehabilitation as reasons for compassionate release. For the reasons explained by the District Court, these grounds likewise do not present extraordinary and compelling reasons for release.

make a sentencing amendment retroactive, the fact that a preamendment sentence is longer than it would have been postamendment is not an extraordinary and compelling reason that warrants a sentence reduction.” (citation modified)). Consistent with this reasoning, the District Court correctly determined that Ortiz could not rely on the non-retroactive amendment to § 841(b)(1)(A) as a basis for compassionate release.

Accordingly, we grant the Government’s motion and will summarily affirm the judgment of the District Court.