

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-3061

September Term, 2021

1:02-cr-00310-JDB-1

Filed On: November 17, 2021

United States of America,

Appellee

v.

Kevin Johnson,

Appellant

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Millett, Wilkins, and Jackson, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the memoranda of law and fact filed by the parties. The court has determined that the issues presented occasion no need for an opinion. See D.C. Cir. Rule 36. Upon consideration of the foregoing, it is

ORDERED and ADJUDGED that the district court's August 24, 2021 order denying appellant's motion for compassionate release be affirmed. Appellant has not shown that the district court failed to follow this court's instructions on remand, see United States v. Johnson, 858 F. App'x. 381, 384–85 (D.C. Cir. June 4, 2021) (per curiam), or that it abused its discretion in denying his motion, see United States v. Long, 997 F.3d 342, 352 (D.C. Cir. 2021) (concluding that abuse of discretion is the appropriate standard of review in compassionate release appeals).

As the district court recognized, nothing in its decision, and likewise nothing in this judgment, precludes appellant from raising in an appropriate motion an argument based on United States v. Winstead, 890 F.3d 1082 (D.C. Cir. 2018), after he has met any exhaustion requirements and sufficiently briefed the issue.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk