

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

United States v. Carr

No. 20-1152, United States Court of Appeals for the Tenth Circuit (April 14, 2021)

SUMMARY

In *United States v. Carr*, the Tenth Circuit vacated the district court’s denial of compassionate release under 18 U.S.C. § 3582(c)(1)(A), holding that USSG §1B1.13 is not an “applicable” policy statement controlling the definition of “extraordinary and compelling reasons” for prisoner-initiated motions under the First Step Act. The district court had relied exclusively on §1B1.13’s “family circumstances” provision (requiring caretaker death or incapacitation) to deny relief based on the defendant’s eldest daughter’s changed ability to care for minor children. Following *McGee* and *Maumau*, the Tenth Circuit remanded for the district court to exercise independent discretion in defining “extraordinary and compelling reasons” and to consider the § 3553(a) factors if appropriate.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Timothy M. Tymkovich; Carolyn B. McHugh; Joel M. Carson III
JURISDICTION	Federal
DECIDED	April 14, 2021
DOCKET	20-1152
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from district court's denial of motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)
STANDARD OF REVIEW	Abuse of discretion for the district court's denial; de novo for interpretation of 18 U.S.C. § 3582(c)(1)(A) and the scope of the district court's authority.
PRECEDENTIAL VALUE	unpublished
PARTIES	Heather Carr v. United States of America

TOPICS

criminal procedure

sentencing

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether USSG §1B1.13 is an applicable policy statement controlling the definition of 'extraordinary and compelling reasons' for prisoner-filed motions under 18 U.S.C. § 3582(c)(1)(A).
2. Whether the district court erred in relying on USSG §1B1.13 to deny Carr's motion for compassionate release without independently exercising its discretion.

HOLDINGS

1. USSG §1B1.13 is not presently an applicable policy statement that controls the definition of 'extraordinary and compelling reasons' when a prisoner initiates a § 3582(c)(1)(A) proceeding. District courts have independent discretion to define that term, subject to the requirement that any reduction be consistent with applicable policy statements.

KEY QUOTATIONS

“USSG §1B1.13 is not presently an 'applicable' policy statement that controls the definition of 'extraordinary and compelling reasons' when a prisoner initiates a § 3582(c)(1)(A) proceeding.” (at 10-11)

“we VACATE the district court's order and REMAND for further proceedings consistent with McGee and Maumau and this order.” (at 13)

FACTUAL BACKGROUND

Heather Carr conspired to defraud the U.S. Department of Education by submitting false student loan applications using the social security numbers of over 150 inmates. She obtained the SSNs through her employment as an underwriter. The conspiracy resulted in \$562,487.85 in disbursed funds. Carr pleaded guilty to one count of conspiracy to defraud the federal government. At sentencing, she had two young children (ages 7 and 3), the youngest diagnosed with autism. The childcare plan was for her eldest daughter (then 22) to care for them. Carr later sought compassionate release, arguing her eldest daughter was experiencing financial and marital difficulties impacting her ability to care for the children. The BOP denied her request.

PROCEDURAL HISTORY

Heather Carr pleaded guilty to conspiracy to defraud the federal government and was sentenced to 57 months' imprisonment. After exhausting administrative remedies with the BOP, she filed a motion for compassionate release under § 3582(c)(1)(A) based on changes in her eldest daughter's ability to care for her minor children. The district court denied the motion, applying USSG §1B1.13 to define 'extraordinary and compelling reasons.' Carr appealed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand for reconsideration in light of *United States v. McGee* and *United States v. Maumau*, and for the district court to exercise its independent discretion to define 'extraordinary and compelling reasons' under 18 U.S.C. § 3582(c)(1)(A) and to consider the 18 U.S.C. § 3553(a) factors if appropriate.

CASES CITED

- *United States v. McGee*, *United States v. McGee*, 2021 WL 1168980 (10th Cir. 2021)
- *United States v. Maumau*, 2021 WL 1217855 (10th Cir. 2021)
- *United States v. Smartt*, 129 F.3d 539 (10th Cir. 1997)
- *United States v. Mannie*, 971 F.3d 1145 (10th Cir. 2020)
- *United States v. Brooker*, 976 F.3d 228 (2d Cir. 2020)
- *United States v. McCoy*, 981 F.3d 271 (4th Cir. 2020)
- *United States v. Jones*, *United States v. Jones*, 980 F.3d 1098 (6th Cir. 2020)
- *United States v. Gunn*, 980 F.3d 1178 (7th Cir. 2020)
- *United States v. Sanchez-Leon*, 764 F.3d 1248 (10th Cir. 2014)