

Compassionate Release May Be Denied Solely on § 3553(a) Without a Sentencing Transcript; Non-Retroactive Law Changes Are Merely Permissive Considerations

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I. Introduction

In **United States v. Daniel Wert** (11th Cir. Mar. 23, 2026) (per curiam) (unpublished), the Eleventh Circuit affirmed the denial of a federal prisoner's motion for compassionate release under **18 U.S.C. § 3582(c) (1)(A)**. Daniel Wert, proceeding *pro se*, is serving a life sentence imposed in 1997 for **conspiracy to possess with intent to distribute marijuana and cocaine** in violation of **21 U.S.C. § 846**.

spirators. The sentencing court applied a then-mandatory Guidelines regime yielding a total offense level of 43 and a mandatory life sentence.

After an earlier appeal resulted in a remand for inadequate explanation (**United States v. Wert, No. 22-11965**), the district court again denied relief—this time with an explanation centered on the § 3553(a) sentencing factors. Wert also sought “spoliation” relief based on the unavailability of his 1997 sentencing transcript, arguing the court should presume it contained mitigating material.

The central issues on appeal were:

- Whether the district court abused its discretion in weighing the § 3553(a) factors to deny compassionate release;
- Whether denial violated the **Ex Post Facto Clause** or the **Sixth Amendment** by not accounting for changes in sentencing law and factfinding rules;
- Whether the absence of the original sentencing transcript required a new hearing or otherwise undermined due process and meaningful review;
- Whether the Eleventh Circuit had jurisdiction to review orders denying Wert’s “spoliation” motions.

II. Summary of the Opinion



findings.

- **United States v. Tinker**: is the decision's structural backbone. It reiterates the three-part compassionate-release inquiry: (1) extraordinary and compelling reasons, (2) consistency with **U.S.S.G. § 1B1.13**, and (3) support in the **§ 3553(a)** factors. Critically, **Tinker** is used for two operational rules: (a) district courts may analyze the three requirements "in any order," and (b) if any single requirement fails, courts need not address the others. That principle largely resolves the appeal: because the district court found the **§ 3553(a)** factors dispositive against release, it was not required to resolve other disputes (e.g., "extraordinary and compelling reasons").

2. Adequacy of Explanation and Consideration of Mitigation

- **United States v. Taylor**: supports the rule that the district court need not discuss each **§ 3553(a)** factor or every mitigating fact, so long as it acknowledges consideration of the factors and parties' arguments.
- **United States v. Johnson**: reinforces that the record must show "pertinent factors were taken into account," not that each factor was exhaustively addressed. The Eleventh Circuit uses this to reject the claim that the court had to explicitly address asserted legal changes.

- **United States v. Trader**: invoked to reject Wert's attempt to add

new factual material (health and rehabilitatio

not presented below. This underscores a practical appellate limitation in compassionate-release litigation: the reviewing court evaluates the district court's decision based on the record before it at the time.

4. Missing Sentencing Transcript and “Record of Sufficient Completeness”

- **Chavez-Meza v. United States**: provides the controlling lens for evaluating explanation adequacy in sentence-modification contexts—whether the “record as a whole” demonstrates the judge considered the arguments and had a reasoned basis for decision. The Eleventh Circuit uses this to hold that the absence of the original sentencing transcript did not, by itself, defeat the district court's ability to rule or the appellate court's ability to review.
- **Griffin v. Illinois** and **Draper v. Washington**: Wert cited **Griffin** for the notion that meaningful review requires a “complete record.” The panel corrects that framing by relying on **Draper's** formulation: the Constitution requires a “record of sufficient completeness,” not necessarily a verbatim transcript in every circumstance.
- **United States v. Caraballo-Martinez** and **United States v. Phillips**: cited for the proposition that a defendant is not entitled to a hearing on a § 3582 motion—undercutting the argument that a missing



- **United States v. Lanzon**: cited for the proposition that the Eleventh Circuit has not recognized the spoliation doctrine in the criminal context. While the panel uses “spoliation” as shorthand for Wert’s requested presumption, it signals skepticism about importing civil spoliation concepts.
- **Weatherly v. Ala. State Univ. and Osterneck v. E.T. Barwick Indus., Inc.**: provide the jurisdictional rule that appellate jurisdiction extends only to judgments/orders specified in the notice of appeal, and that liberal construction has limits absent an “overriding intent” apparent on the face of the notice. Applying these, the panel holds Wert did not appeal the spoliation orders.
- **Sapuppo v. Allstate Floridian Ins. Co.**: supports the rule that arguments raised for the first time in a reply brief are generally not considered—used to reject Wert’s late, perfunctory discussion.
- **Jeffries v. United States**: cited for the “prison mailbox rule,” relevant to when Wert’s motions were deemed filed.

6. Ineffective Assistance Claims and Proper Vehicles

- **United States v. Abreu, United States v. Escajeda, and United States v. Bass**: collectively cited for the proposition that ineffective assistance claims are not appropriately brought through a compassionate-release motion (and typically require an evidentiary record), in-

B. Legal Reasoning

1. Denial Based on § 3553(a) Alone

The opinion's core move is doctrinally simple and practically powerful: under **United States v. Tinker**, a court may deny compassionate release if any one of the required elements is missing, and it may choose the order of analysis. Here the district court selected § 3553(a) as the gating issue and found the factors weighed heavily against release.

The panel credits the district court's emphasis on:

- **Nature and circumstances of the offense:** involvement in a major trafficking enterprise and a killing for money;
- **History and characteristics:** perceived lack of remorse and a disciplinary history, with the court declining to privilege a recent period of compliance over decades of misconduct;
- **Seriousness, respect for law, and just punishment:** the court's view that the conduct was among the most serious;
- **Protection of the public:** the inference that willingness to kill for money presents enduring risk.

Notably, the Eleventh Circuit treats these as classic discretionary judgments: even if an appellate court might weigh rehabilitation or age differently, abuse-of-discretion review does not permit substitution of

Wert argued the district court should have accounted for changes in sentencing law and asserted that under today’s framework he would not receive life, including arguments framed under the **Ex Post Facto Clause** and the **Sixth Amendment** (jury factfinding versus judicial factfinding).

The panel’s answer is anchored in the Sentencing Commission’s policy statement: **U.S.S.G. § 1B1.13(c)** (as referenced by the opinion in connection with the 2023 amendment). The key interpretive move is the emphasis on “may be considered”—a grant of discretion, not a mandate. Thus, even if there is a disparity between a pre-Booker mandatory-guidelines life sentence and a hypothesized current advisory range, the district court is not compelled to address or give controlling weight to that disparity, especially where other **§ 3553(a)** considerations predominate.

The panel also rejects the framing of the district court’s analysis as unconstitutional “judicial factfinding,” characterizing it instead as the permissible consideration of record evidence when applying **§ 3553(a)** to a sentence-modification request. In other words, the court treats compassionate release as a discretionary modification inquiry, not a re-sentencing that re-triggers jury-trial factfinding rules.

3. Missing Transcript Does Not Trigger a New Sentencing Hearing



that for several interlocking reasons:

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- **No requirement to rely on prior sentencing remarks:** While a court may consider the original sentencing context, the Eleventh Circuit states it has “never held” that the court must rely on the original sentencing court’s statements. The touchstone is the present decision’s reasoned basis (**Chavez-Meza v. United States**).
- **“Sufficient completeness,” not perfection:** The panel distinguishes between needing an absolutely complete record (which it says is not the rule) and needing a record adequate to evaluate claims (**Draper v. Washington**).
- **No entitlement to a § 3582 hearing:** Because the defendant is not entitled to a hearing on a § 3582 motion (**United States v. Caraballo-Martinez**; **United States v. Phillips**), the absence of a transcript does not create a procedural right to a new sentencing hearing.
- **Substitute record sources:** The district court relied on the presentence investigation report and other record materials. The appellate court found this adequate to support the district court’s § 3553(a) reasoning.

In practical terms, the decision signals that compassionate-release proceedings are not designed to reconstruct historical sentencing minutiae when the existing record (especially a detailed PSR) is sufficient to support a discretionary decision.

Even if the “spoliation” theory could matter, *Weatherly v. Ala. State Univ.* and *Osterneck v. E.T. Barwick Indus., Inc.*, the notice of appeal must specify the order being appealed, and liberal construction does not extend to unmentioned orders absent clear intent.

The panel finds no such intent: Wert’s notice of appeal referenced only the denial of compassionate release; his opening brief did not raise spoliation; and his reply brief treatment was too late and too underdeveloped under *Sapuppo v. Allstate Floridian Ins. Co.*

C. Impact

- Reinforcement of “§ 3553(a) as a standalone barrier”:** The decision strengthens the practical lesson of *United States v. Tinker*—district courts can deny compassionate release solely on § 3553(a), and appellate courts will typically affirm if the explanation is rational and grounded in the record.
- Limited leverage of non-retroactive changes:** By emphasizing the permissive “may” in U.S.S.G. § 1B1.13(c), the opinion suggests that disparity arguments based on non-retroactive legal change will often fail where offense seriousness and public-safety factors dominate. It does not foreclose relief in other cases, but it rejects any notion of an entitlement to a disparity-based reduction.

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presumptions, or resentencings in § 3582 litigation where other record components suffice.

- **Procedural discipline for ancillary orders:** The jurisdiction holding is a cautionary precedent for pro se and represented litigants alike: if a party wants review of separate post-judgment orders, the notice of appeal must clearly encompass them, and briefing must properly present the issues.

IV. Complex Concepts Simplified

- **Compassionate release (18 U.S.C. § 3582(c)(1)(A)):** A mechanism allowing a court to reduce a prison term after sentencing if certain conditions are met. It is not a full resentencing.
- **Three-part test (as used here):** Under **United States v. Tinker**, the court considers: (1) extraordinary and compelling reasons; (2) consistency with U.S.S.G. § 1B1.13; and (3) whether the § 3553(a) factors support release. Failure on any one defeats the motion.
- **§ 3553(a) factors:** The sentencing considerations Congress requires, including seriousness of the offense, deterrence, protection of the public, and the defendant's history and characteristics.
- **Non-retroactive changes in law:** Legal changes that do not automatically apply to already-final sentences. Under U.S.S.G. §

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Amendment generally limits increasing punishment based on judge-found facts in certain contexts. Here, the court treated the district judge’s actions as evaluating existing record evidence for discretionary relief, not as imposing a new, enhanced sentence.

- **Record of “sufficient completeness”:** Under **Draper v. Washington**, appellate review requires an adequate record to evaluate the issues, not necessarily every transcript page.
- **Spoliation:** A civil doctrine sometimes allowing adverse inferences when evidence is destroyed. The opinion notes, via **United States v. Lanzon**, that the Eleventh Circuit has not recognized spoliation in the criminal context; and in any event, the spoliation orders were not properly appealed.
- **Notice of appeal:** A jurisdictional document that must identify what is being appealed. If an order is not identified (or clearly intended), the appellate court generally cannot review it (**Weatherly v. Ala. State Univ.**; **Osterneck v. E.T. Barwick Indus., Inc.**).

V. Conclusion

United States v. Daniel Wert underscores a decisive, practice-shaping principle in Eleventh Circuit compassionate-release jurisprudence: a district court may deny relief based solely on a reasoned § 3553(a) analysis, without resolving other components of the compassionate-re-

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opinion further clarifies that (1) non-ret



changes are *permissive* considerations under U.S.S.G. § 1B1.13(c), not mandatory drivers; (2) the absence of an original sentencing transcript does not itself require a hearing or resentencing where the existing record (such as a PSR) supports reasoned decisionmaking; and (3) appellate review remains tightly bounded by the notice of appeal and issue preservation rules.

Case Details

[United States v. Daniel Wert](#)

YEAR: 2026 COURT: COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

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