

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 28, 2020

Lyle W. Cayce
Clerk

No. 20-10623
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JERRY DUARTE, *also known as* “MEXICAN JERRY”,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:16-CR-132-21

Before HIGGINBOTHAM, JONES, and COSTA, *Circuit Judges.*

PER CURIAM:*

Jerry Duarte, federal prisoner # 55772-177, appeals the district court’s denial of his motion for a compassionate release reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). In that motion, Duarte argued that

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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he should be released due to his age and health conditions, which put him at an increased risk of serious illness or death due to COVID-19.

On appeal, Duarte argues that the district court abused its discretion in determining that the 18 U.S.C. § 3553(a) factors weighed against granting a sentence reduction. Having reviewed the district court's reasons for denying Duarte's motion to reduce his sentence, we find no abuse of discretion. The district court did not base its decision on an error of law or a clearly erroneous assessment of the evidence. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Duarte's disagreement with how the district court balanced the § 3553(a) factors does not present a sufficient ground for reversal. *See id.* at 694.

Further, we decline to consider Duarte's argument that he should be released to home confinement under Section 12003(b)(2) of the Coronavirus Aid, Relief, and Economic Security Act, *see* Pub. L. 116-136, § 12003(b)(2), 134 Stat. 281 (2020), because the argument was not presented to the district court and he has not shown extraordinary circumstances warranting this court's review in the first instance, *see Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999).

The district court's judgment is AFFIRMED.