

United States Court of Appeals for the Fifth Circuit

No. 22-10706
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 10, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ARTURO PEREZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:12-CR-133-1

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Arturo Perez, federal prisoner #44470-177, appeals the denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). With the assistance of the Federal Public Defender, Perez argues that the district court abused its discretion by justifying its denial of relief on the basis that he had successfully recovered from a prior COVID-19 infection and had been

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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vaccinated. He further argues that the district court abused its discretion by adopting a “blanket rule” that the availability of COVID-19 vaccines and therapeutics precluded a finding that health risks associated with COVID-19 infections constituted extraordinary and compelling reasons warranting compassionate release.

We review the denial of a motion for compassionate release for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Contrary to Perez’s contentions, the district court properly considered his recovery from an asymptomatic COVID-19 infection, as well as the availability of vaccines and therapeutics, when determining whether he presented extraordinary and compelling reasons warranting release. *See United States v. Rodriguez*, 27 F.4th 1097, 1099-1101 & n.2 (5th Cir. 2022); *United States v. Thompson*, 984 F.3d 431, 433-35 (5th Cir. 2021). Additionally, the district court did not adopt a blanket rule but rather considered these factors along with other individualized factors pertaining to Perez.

Perez has failed to show that the district court abused its discretion in denying his motion for compassionate release. *See Chambliss*, 948 F.3d at 693. Accordingly, the judgment of the district court is AFFIRMED.