

United States Court of Appeals for the Fifth Circuit

No. 22-50884
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 27, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROBERTO ANGEL CARDONA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:10-CR-2213-15

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Defendant-Appellant Roberto Angel Cardona appeals the denial of his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). Cardona contends that the district court erroneously calculated his guidelines range at sentencing and that he is entitled to a two-level reduction

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

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in his offense level under Amendment 782 to the Sentencing Guidelines. He also contends that the 18 U.S.C. § 3553(a) factors favor relief.

We review the denial of Cardona's § 3582(c)(1)(A)(i) motion for abuse of discretion and affirm that decision. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Cardona cannot "challenge the legality or the duration of his sentence" through a motion for compassionate release. *United States v. Escajeda*, 58 F.4th 184, 187 (5th Cir. 2023). Furthermore, because a two-level reduction in his guidelines range would still result in a total offense level above 43, Amendment 782 has no effect on that range. *See* U.S.S.G. Ch. 5, Pt. A (Sentencing Table), comment (n.2). We need not discuss the § 3553(a) factors because Cardona fails to demonstrate that the district court abused its discretion in denying his motion for compassionate release based on its finding that he failed to establish extraordinary and compelling circumstances. *See United States v. Jackson*, 27 F.4th 1088, 1093 n.8 (5th Cir. 2022); *Chambliss*, 948 F.3d at 693.

The district court's decision is AFFIRMED.