

United States Court of Appeals for the Fifth Circuit

No. 22-51128
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 24, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ADAN REYES-RODRIGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:15-CR-1946-1

Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Adan Reyes-Rodriguez, federal prisoner # 61217-380, appeals the denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). Reyes-Rodriguez contends that family circumstances create extraordinary and compelling reasons because his mother is suffering from deteriorating health conditions that require his constant care. He also

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

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appears to contend that the COVID-19 outbreak and the failure of the Bureau of Prisons to adequately respond and his rehabilitation in prison constitute extraordinary and compelling circumstances warranting early release.

We review the denial of a motion for compassionate release for an abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Reyes-Rodriguez contends that the district court erred because it found that the policy statement in U.S.S.G. § 1B1.13 was binding. *See United States v. Shkambi*, 993 F.3d 388, 392-93 (5th Cir. 2021). However, contrary to Reyes-Rodriguez's argument, the district court merely found that the policy statement informed its analysis as to what reasons were sufficiently extraordinary and compelling to warrant compassionate release. *See United States v. Thompson*, 984 F.3d 431, 433 (5th Cir. 2021); *see also* § 1B1.13, cmt. (n.1(C)). Because Reyes-Rodriguez had failed to offer any evidence in support of his claim that he was the only person able to provide care for his ailing mother, the district court did not err in rejecting his family-circumstances argument. Furthermore, we do not reach Reyes-Rodriguez's COVID-19 related argument, because it is raised for the first time on appeal. *See Thompson*, 984 F.3d at 432 n.1. Finally, his argument that he is entitled to relief based on his rehabilitation is conclusory.

Based on the foregoing, the district court did not abuse its discretion in denying his motion. *See Chambliss*, 948 F.3d at 693. Accordingly, the judgment of the district court is AFFIRMED.