

United States Court of Appeals for the Fifth Circuit

No. 24-50368
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ERNEST ANDRADE ZUBIATE,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:03-CR-144-19

Before GRAVES, WILLETT, and WILSON, *Circuit Judges.*

PER CURIAM:*

Ernest Andrade Zubiate, federal prisoner # 39504-180, appeals the denial of his motion for compassionate release, filed pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). Zubiate argues that the district court failed to explain its reasons for rejecting his arguments regarding the extraordinary and compelling reasons warranting his compassionate release. Additionally, he

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

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contends that the district court, in assessing the relevant 18 U.S.C. § 3553(a) factors, abused its discretion by denying relief based on pre-sentence conduct that was over 20 years old without giving any weight to his post-sentence rehabilitation. Although Zubiato also attempts to incorporate the arguments raised in his § 3582(c)(1)(A)(i) motion, he may not do so. *See Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993).

We review the denial for abuse of discretion. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). Here, the district court conducted an independent review of the § 3553(a) factors and determined that Zubiato was not entitled to relief. Zubiato’s disagreement with the balancing of those factors is insufficient to show an abuse of discretion. *See id.* at 694. Moreover, the district court’s analysis was thorough and “relied upon the record, while making clear that [the court] considered [Zubiato’s] arguments and [took] account of the § 3553(a) factors.” *Chavez-Meza v. United States*, 585 U.S. 109, 116 (2018). Accordingly, the reasons provided are sufficient. *See id.*

Because the district court’s independent consideration of the § 3553(a) factors provides a sufficient basis for affirmance, we need not consider whether the district court erred in determining that Zubiato failed to show extraordinary and compelling reasons warranting relief. *See United States v. Jackson*, 27 F.4th 1088, 1093 n.8 (5th Cir. 2022).

AFFIRMED.