

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 2, 2021

Lyle W. Cayce
Clerk

No. 20-10531
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LOUSH BRANTLEY,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:12-CR-3-1

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

PER CURIAM:*

Louish Brantley, federal prisoner # 35591-177, appeals the district court's denial of his 18 U.S.C. § 3582(c)(1)(A) motion for compassionate release, asserting that his underlying medical conditions, type 1 diabetes and hypertension, put him at a high risk of death or severe illness from COVID-

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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19 and specifically asserting that his medical conditions constitute extraordinary and compelling reasons for release. The district court denied the motion. We AFFIRM.

Brantley asserted that he exhausted his administrative remedies, but the Government argued his request to the warden for home confinement, which was pursuant to the CARES Act, cannot satisfy the statutorily mandated procedures for compassionate relief under the First Step Act. We agree.

Under the First Step Act, Brantley must have “fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on [] [his] behalf.” 18 U.S.C. § 3582(c)(1)(A). Brantley has failed to provide any documentation to show that his administrative remedies were truly exhausted before he sought relief from the court. As we have held before, the requirement to petition the prison first is not jurisdictional, it is mandatory. *United States v. Franco*, 973 F.3d 465, 467 (5th Cir. 2020).

Because Brantley has not shown that he properly exhausted his administrative remedies, as required by the statute pursuant to which he seeks relief, we AFFIRM the district court’s order.