

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

June 4, 2021

Lyle W. Cayce  
Clerk

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No. 20-10681  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

FABIAN C. FLEIFEL,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:12-CR-318-3

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

PER CURIAM:\*

Fabian C. Fleifel, federal prisoner # 57575-018, has appealed the district court's order denying his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). He argues that the district court should have reduced his sentence to time served in light of the 18 U.S.C. § 3553(a) factors

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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and his health conditions. To the extent he has moved this court for compassionate release, the motion is DENIED because we cannot decide such a motion in the first instance as, in context, § 3582 directs the filing of such motions in the sentencing court. *See* § 3582(c)(1)(A); *see also* *Dillon v. United States*, 560 U.S. 817, 821 (2010).

We pretermitted the question whether the district court erred in determining that Fleifel failed to exhaust his administrative remedies. *See United States v. Franco*, 973 F.3d 465, 467-68 (5th Cir.), *cert. denied*, 141 S. Ct. 920 (2020). To the extent that Fleifel relies on documents or facts that were not before the district court, we will not consider them. *See Theriot v. Parish of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999).

Fleifel has not shown that the district court abused its discretion in determining that he did not have an extraordinary and compelling reason for his immediate release. *See United States v. Thompson*, 984 F.3d 431, 434-35 (5th Cir. 2021), *cert. denied*, 2021 WL 2044647 (U.S. May 24, 2021) (No. 20-7832). The district court's order is AFFIRMED.