

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

October 13, 2021

Lyle W. Cayce  
Clerk

---

No. 20-40598  
Summary Calendar

---

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ANTONIO ESCOBAR,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:17-CR-529-1

---

Before WIENER, DENNIS, and HAYNES, *Circuit Judges.*

PER CURIAM:\*

Antonio Escobar, federal prisoner # 29230-479, was convicted of possessing with the intent to distribute 13.03 kilograms of cocaine and was sentenced to 120 months of imprisonment and five years of supervised release. He appeals the denial of his 18 U.S.C. § 3582(c)(1)(A)(i) motion.

---

\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-40598

The denial of a motion for compassionate release under § 3582(c)(1)(A)(i) is reviewed for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693-94 (5th Cir. 2020). A district court abuses its discretion when its decision is based on a legal error or clearly erroneous factual findings. *Id.* at 693.

A district court disposing of a prisoner's compassionate release motion must consider § 3582(c)(1)(A)(i) and the 18 U.S.C. § 3553(a) sentencing factors but is not bound by U.S.S.G. § 1B1.13 or its commentary. *United States v. Shkambi*, 993 F.3d 388, 393 (5th Cir. 2021). Here, there was no legal error under *Shkambi*, 993 F.3d at 393, because the district court's denial of relief was grounded in its assessment of the § 3553(a) factors.

There is no merit to Escobar's assertion that the district court legally erred by failing to consider his contention that his participation in prison education programs established a record of post-sentencing rehabilitation that warranted relief under the § 3553(a) sentencing factors. To the extent that Escobar presented such an argument, we can assume that the district court considered it, even though the argument was not specifically addressed in the denial order. *See United States v. Evans*, 587 F.3d 667, 673 (5th Cir. 2009); *see also United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020); *United States v. Brevick*, 669 F. App'x 266, 267 (5th Cir. 2016) (per curiam); *United States v. Perez*, 670 F. App'x 257, 258 (5th Cir. 2016) (per curiam) (explaining that the district court need not "expressly explain" its application of the factors and that "if the record shows that the district court gave due consideration to the motion as a whole and implicitly considered the [factors], there is no abuse of discretion").

Escobar further contends that, while applying the § 3553(a) factors, the district court clearly erred in finding that he twice refused to provide a urine sample for prison drug and alcohol testing. The district court actually

No. 20-40598

stated, correctly, that Escobar had twice been disciplined for failing to provide a sample. Even if we construe this statement as a finding of refusal to provide the sample, because this factual determination was not implausible in light of the record as a whole, there was no clear error. *See United States v. Peterson*, 977 F.3d 381, 396 (5th Cir. 2020).

Given the foregoing, the district court did not abuse its discretion in denying Escobar's motion for compassionate release under § 3582(c)(1)(A)(i). *See Chambliss*, 948 F.3d at 693-94. The judgment of the district court is AFFIRMED.