

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 1, 2021

Lyle W. Cayce  
Clerk

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No. 20-50601  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CARLOS YBARRA,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:08-CR-47-21

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Before CLEMENT, ELROD, and HAYNES, *Circuit Judges.*

PER CURIAM:\*

Carlos Ybarra, federal prisoner # 97326-180, moves for leave to proceed in forma pauperis (IFP) on appeal from the denial of a motion for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A) based on his health and the risk of COVID-19. The IFP motion is construed as a challenge to the

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-50601

district court's certification that the appeal was not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

We review the determination that relief was unwarranted under the 18 U.S.C. § 3553(a) factors for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). The district court clearly articulated fact-specific reasons why Ybarra's sentence should not be reduced, chiefly his membership in a violent criminal organization and his murder of a government informant. Ybarra's contrary arguments that his history and offense are outweighed by his present characteristics and circumstances amount to a disagreement with the court's balancing of the § 3553(a) factors, which "is not a sufficient ground for reversal." *Chambliss*, 948 F.3d at 694.

Although Ybarra fails to show a reversible error by the district court, his appeal is not without any arguable merit, *see Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983), and he is financially eligible to proceed IFP, *see Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). We therefore GRANT the motion to proceed IFP and AFFIRM. Ybarra's motion asking this court to reduce his sentence is DENIED.