

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 29, 2022

Lyle W. Cayce
Clerk

No. 21-40524
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

BRIAN MCCUISTON,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 2:04-CR-676-2

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Brian McCuiston, federal prisoner #14835-064, was convicted of conspiracy to possess with intent to distribute more than 500 grams of methamphetamine and was sentenced to 280 months in prison. In this appeal, he challenges the denial of his motion for compassionate release under 18 U.S.C.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 21-40524

§ 3582(c)(1)(A)(i).

We review the denial of compassionate release for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). A district court abuses its discretion when its decision is based on a legal error or a clearly erroneous assessment of the evidence. *Id.* at 693–94.

A motion for compassionate release may be granted if, after considering the applicable 18 U.S.C. § 3553(a) factors, the district court finds, *inter alia*, that “extraordinary and compelling reasons warrant such a reduction” and that a sentence “reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A). The district court denied relief based on its assessment of the § 3553(a) factors and for other reasons. McCuiston has failed to show that the court abused its discretion in determining that the § 3553(a) factors did not warrant compassionate release. *See Chambliss*, 948 F.3d at 693–94.

The judgment is AFFIRMED.