

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 12, 2021

No. 21-50058
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE LEON GONZALEZ-LONGORIA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:92-CR-65-1

Before STEWART, HAYNES, and HO, *Circuit Judges.*

PER CURIAM:*

Jose Leon Gonzalez-Longoria, federal prisoner # 59761-079, moves for leave to proceed in forma pauperis (IFP) in his appeal of the denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A). Gonzalez-Longoria argues that the district court abused its discretion in

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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denying the motion for compassionate release. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020).

By moving in this court to proceed IFP, Gonzalez-Longoria challenges the district court's certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into Gonzalez-Longoria's good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

Contrary to Gonzalez-Longoria's argument, the district court did not indicate that it was bound by the Sentencing Commission's policy statement at U.S.S.G. § 1B1.13 policy statement considering the motion for compassionate release. *See United States v. Shkambi*, 993 F.3d 388, 392-93 (5th Cir. 2021). The district court made detailed findings about the 18 U.S.C. § 3553(a) factors. *See Chambliss*, 948 F.3d at 693-94 (affirming the denial of compassionate release based on the § 3553(a) factors). Gonzalez-Longoria's disagreement with the district court's weighing of the § 3553(a) factors is insufficient to show an abuse of discretion. *See Chambliss*, 948 F.3d at 693. Gonzalez-Longoria has not shown that the district court abused its discretion in denying his motion for compassionate release and has failed to raise a nonfrivolous issue for appeal.

Accordingly, we DISMISS Gonzalez-Longoria's appeal as frivolous and DENY the motion to proceed IFP on appeal. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.