

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 30, 2021

Lyle W. Cayce
Clerk

No. 21-50214
Summary Calendar

DAVID LOPEZ,

Petitioner—Appellant,

versus

THOMAS BERGAMI, *Warden,*

Respondent—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:20-CV-167

Before JOLLY, WILLETT, and HO, *Circuit Judges.*

PER CURIAM:*

David Lopez, federal prisoner # 17702-180, filed a habeas petition pursuant to 28 U.S.C. § 2241, seeking release to home confinement under § 12003(b)(2) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and, alternatively, requesting compassionate release pursuant

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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to 18 U.S.C. § 3582(c)(1)(A). The district court concluded that Lopez had failed to exhaust administrative remedies for his CARES Act claims and ruled in the alternative that Lopez's challenge to the denial of home confinement was without merit. In addition, the court found that Lopez's § 3582 claims should be raised in his criminal proceedings and could not be considered in a standalone § 2241 petition. Lopez now appeals the denial of his § 2241 petition and the denial of his Federal Rule of Civil Procedure 59(e) motion to alter or amend judgment.

With respect to his claims under § 3582(c)(1)(A), Lopez has failed to show that the district court erred in declining to consider his claims. *See United States v. Alvarez*, 210 F.3d 309, 310 (5th Cir. 2000); *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). As for his request for release to home confinement under the CARES Act, Lopez has not briefed any challenge to the district court's exhaustion ruling. Accordingly, he has abandoned any such challenge. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). He has not established that the district court erred in denying relief on his § 2241 petition or abused its discretion in denying his Rule 59(e) motion. *See Alexander v. Wells Fargo Bank, N.A.*, 867 F.3d 593, 597 (5th Cir. 2017); *Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000). Accordingly, the judgment of the district court is AFFIRMED. Lopez's motion for compassionate release is DENIED.