

United States Court of Appeals for the Fifth Circuit

No. 21-50917
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE PADRON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 6:09-CR-191-4

Before SMITH, DENNIS, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:*

Jose Padron, federal prisoner #39456-177, appeals the denial of his motion for compassionate release and motion for reconsideration. The district court determined that Padron had failed to show extraordinary and compelling reasons warranting a sentence reduction and that the 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* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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§ 3553(a) factors did not justify a reduction. *See* 18 U.S.C. § 3582(c)(1)(A).

The district court found that Padron was not sentenced based on any misinformation by an individual cooperating with the government and that the sentence was not affected by reduced mandatory minimum sentences under the First Step Act of 2018. Padron fails to show that those findings are erroneous. Additionally, although he asserts that he has had serious health issues that could make him susceptible to COVID-19 complications, he does not identify any specific health issue.

Padron's assertions regarding whether his drug offense was serious or violent, the amount of time he has served, and his postconviction rehabilitation do not show that the district court based its decision on an error of law or a clearly erroneous assessment of the evidence. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). To the extent those assertions challenge the district court's determination that the § 3553(a) factors did not justify a reduction, Padron's disagreement with the court's balancing of the § 3553(a) factors is not a sufficient ground for reversal. *See id.* at 694. Padron has not shown that the district court abused its discretion.

In addition to his appeal, Padron has filed a motion in this court requesting compassionate release. He cites no authority by which an appellate court may reduce a federal prisoner's sentence in the first instance under these circumstances. The motion is DENIED.

The denial of compassionate release and reconsideration is AFFIRMED.