

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 18, 2021

Lyle W. Cayce
Clerk

No. 21-60117
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HORACE M. RUTLEDGE, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:17-CR-116-1

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

Horace M. Rutledge, Jr., federal prisoner # 20507-043, appeals the district court's denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). We review a district court's decision to deny a defendant's motion for compassionate release for an abuse of discretion.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 21-60117

United States v. Chambliss, 948 F.3d 691, 693 (5th Cir. 2020). “[A] court abuses its discretion if it bases its decision on an error of law or a clearly erroneous assessment of the evidence.” *Id.* (internal quotation marks and citation omitted).

Having reviewed the district court’s reasons for denying Rutledge’s motion for compassionate release, we find no abuse of discretion. Here, the district court reasoned that Rutledge’s general fear of contracting COVID-19 did not constitute extraordinary and compelling reasons warranting compassionate release. *See* § 3582(c)(1)(A)(i). The district court further determined that Rutledge’s release was not warranted based on the 18 U.S.C. § 3553(a) sentencing factors, as he had been convicted of a serious offense and his 120-month sentence reflected the seriousness of that offense and the need to afford adequate deterrence and to protect the public. Rutledge has not shown that the district court based its decision on a legal error or a clearly erroneous factual finding. *See Chambliss*, 948 F.3d at 693-94; *see also United States v. Thompson*, 984 F.3d 431, 434-35 (5th Cir.), *cert. denied*, 2021 WL 2044647 (U.S. May 24, 2021) (No. 20-7832). Moreover, Rutledge’s disagreement with the district court’s balancing of the § 3553(a) factors is not sufficient to establish that the district court abused its discretion in denying his motion. *See Chambliss*, 948 F.3d at 694.

Accordingly, the district court’s order is AFFIRMED. Rutledge’s motion for appointment of new counsel is DENIED.