

United States Court of Appeals for the Fifth Circuit

No. 22-10752
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAMES L. RUDZAVICE,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:07-CR-138-1

Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

James L. Rudzavice, federal prisoner # 36844-177, was convicted of receiving child pornography and attempting to transfer obscene material to a minor, and he was sentenced to consecutive prison terms totaling 360 months. *United States v. Rudzavice*, 586 F.3d 310, 312-13 (5th Cir. 2009). Proceeding pro se, Rudzavice appeals the district court's denial of his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). We

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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review the district court’s decision to deny a § 3582(c)(1)(A)(i) motion for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020).

Rudzavice asserts that the district court improperly relied on the policy statement of U.S.S.G. § 1B1.13 in denying his motion. As he suggests, the policy statement at § 1B1.13 only applies to motions filed by the Bureau of Prisons. *See United States v. Shkambi*, 993 F.3d 388, 392 (5th Cir. 2021). Accordingly, we have concluded that district courts addressing § 3582 motions filed by prisoners are not bound by that policy statement nor its commentary but rather are “bound only by § 3582(c)(1)(A)(i) and . . . the sentencing factors in [18 U.S.C.] § 3553(a).” *Id.* at 393.

Nevertheless, “we have regularly affirmed the denial of a compassionate-release motion—even in cases with a *Shkambi* problem—where the district court’s weighing of the Section 3553(a) factors can independently support its judgment.” *United States v. Jackson*, 27 F.4th 1088, 1093 n.8 (5th Cir. 2022). In this case, the district court expressly determined that the § 3553(a) factors weighed against a sentence reduction. Although Rudzavice “may disagree with how the district court balanced the § 3553(a) factors, that is not a sufficient ground for reversal.” *Chambliss*, 948 F.3d at 694. As for Rudzavice’s assertion that the district court judge was biased against him, we will not consider arguments raised for the first time on appeal. *See Bower v. Quarterman*, 497 F.3d 459, 475 (5th Cir. 2007).

Because the district court did not abuse its discretion, the district court’s judgment is AFFIRMED.