

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 16 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 21-10020

Plaintiff-Appellee,

D.C. Nos.

v.

1:93-cr-05046-DAD-1

1:93-cr-05046-DAD

RAUL AMEZCUA,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Dale A. Drozd, District Judge, Presiding

Submitted April 15, 2021**
San Francisco, California

Before: WARDLAW, GOULD, and OWENS, Circuit Judges.

Raul Amezcua appeals from the district court's order denying his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). The district court held that Amezcua had not shown "extraordinary and compelling" reasons warranting his release. 18 U.S.C. § 3582(c)(1)(A)(i). In doing so, the district court appears to

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have relied on the U.S. Sentencing Commission’s policy statement in U.S. Sentencing Guidelines Manual (“U.S.S.G.”) § 1B1.13. After the district court’s decision, we held that “the current version of U.S.S.G. § 1B1.13 is not an ‘applicable policy statement[]’ for 18 U.S.C. § 3582(c)(1)(A) motions filed by a defendant.” *United States v. Aruda*, No. 20-10245, 2021 WL 1307884, at *4 (9th Cir. Apr. 8, 2021) (per curiam). “The Sentencing Commission’s statements in U.S.S.G. § 1B1.13 may inform a district court’s discretion for § 3582(c)(1)(A) motions filed by a defendant, but they are not binding.” *Id.*

In light of our intervening decision in *Aruda*, we vacate and remand so that the district court can reassess Amezcua’s motion for compassionate release under the standard set forth there. We offer no views as to the merits of Amezcua’s § 3582(c)(1)(A)(i) motion.

VACATED AND REMANDED.