

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 14 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-10325

Plaintiff-Appellee,

D.C. Nos.

v.

1:08-cr-00715-DKW-1

LESLIE MINORU UEKI,

1:08-cr-00715-DKW

Defendant-Appellant.

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Derrick Kahala Watson, District Judge, Presiding

Submitted May 12, 2021**
San Francisco, California

Before: NGUYEN, OWENS, and FRIEDLAND, Circuit Judges.

Leslie Minoru Ueki 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 Ueki 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

* 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).

concluded it was bound by 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*, 993 F.3d 797, 802 (9th Cir. 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 Ueki’s motion for compassionate release under the standard set forth there. We offer no views as to the merits of Ueki’s § 3582(c)(1)(A)(i) motion.

VACATED AND REMANDED.