

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 21 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-10298

Plaintiff-Appellee,

D.C. No. 4:10-cr-00607-JSW-2

v.

MEMORANDUM*

DAMON SYKES,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted May 18, 2021**

Before: CANBY, FRIEDLAND, and VANDYKE, Circuit Judges.

Damon Sykes appeals from the district court's order denying his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291. Reviewing for abuse of discretion, *see United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021), we affirm.

* 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).

Sykes contends the district court abused its discretion when, without first considering whether his proffered conditions of release were enough to assure the safety of the community, it found that the factors listed in 18 U.S.C. § 3553(a), particularly the danger he posed to the community, did not support a sentence reduction. He argues that his proposed release plan, considered in the context of his positive behavior while in prison rather than his criminal history, warranted granting his motion.

The district court did not abuse its discretion in concluding that Sykes posed a danger to the community in light of the seriousness of his armed bank robbery offense, committed while on supervised release for a previous armed bank robbery conviction, and his prior convictions. The court properly weighed the § 3553(a) factors, including Sykes's rehabilitation and excellent custodial record, and did not abuse its discretion in concluding that the totality of the factors weighed against reduction. *See United States v. Robertson*, 895 F.3d 1206, 1213 (9th Cir. 2018) (a district court abuses its discretion only if its decision is illogical, implausible, or without support in the record).

AFFIRMED.