

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 25 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-10287

Plaintiff-Appellee,

D.C. No. 2:16-cr-00046-TLN-2

v.

MEMORANDUM*

ZALATHIEL AGUILA,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted June 21, 2021**

Before: SILVERMAN, WATFORD, and BENNETT, Circuit Judges.

Zalathiel Aguila 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. We vacate the district court's order and remand for the district court to reconsider Aguila's motion.

* 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).

The district court held that Aguila 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 relied on 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) (internal quotation marks and alterations omitted). “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 Aguila’s motion for compassionate release under the standard set forth there. We offer no views as to the merits of Aguila’s § 3582(c)(1)(A)(i) motion.

VACATED and REMANDED.