

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 29 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30000

Plaintiff-Appellee,

D.C. No. 1:14-cr-00007-SPW-1

v.

MICHAEL CORY SEVERSON,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted June 21, 2021**

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

Michael Cory Severson appeals pro se 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, and we vacate and remand.

After the district court's decision denying relief, this court held that the

* 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).

current version of U.S.S.G. § 1B1.13 is not binding as applied to § 3582(c)(1)(A) motions brought by prisoners. *See United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (“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.”). Because it appears that the district court treated U.S.S.G. § 1B1.13 as binding and denied Severson’s motion pursuant to that guideline, we vacate and remand so the district court can reassess Severson’s motion for compassionate release under the standard set forth in *Aruda*. *See id.*

We offer no views as to the merits of Severson’s § 3582(c)(1)(A)(i) motion, and we need not reach his remaining arguments on appeal.

Severson’s motion for an extension of time to file his reply brief is granted. The reply brief at Docket Entry No. 21 has been filed and considered.

VACATED and REMANDED.