

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-10384

Plaintiff-Appellee,

D.C. No.

v.

3:14-cr-00044-MMD-WGC-9

MARTIN CISNEROS, AKA Moose,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Nevada

Larry R. Hicks, District Judge, Presiding

Submitted June 21, 2021**

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

Martin Cisneros 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, and we vacate and remand.

Cisneros contends that the district court erred by applying U.S.S.G.

* 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).

§ 1B1.13 as an applicable policy statement. After the district court’s decision denying relief and the parties’ briefing on appeal, this court held that the 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 is unclear whether the district court treated U.S.S.G. § 1B1.13 as binding in this case, we vacate and remand so that the district court can reassess Cisneros’s motion for compassionate release under the standard set forth in *Aruda*. *See id.*

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

VACATED and REMANDED.