

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 28 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-10054

Plaintiff-Appellee,

D.C. No. 1:17-cr-00490-LEK-1

v.

MICHAEL PREM,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Hawaii
Leslie E. Kobayashi, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Michael Prem 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.

Prem contends that the district court erred by treating U.S.S.G. § 1B1.13 as a

* 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). Prem's motion to expedite the hearing of this appeal without oral argument is granted.

binding policy statement. The government concedes, and we agree, that remand is warranted for the district court to reassess Prem's motion for compassionate release under the standard set forth in *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (“[T]he 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.” (internal quotation marks and alteration omitted)). Accordingly, we vacate the district court's order denying Prem's motion and remand for further proceedings. *See id.*

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

VACATED AND REMANDED.