**NOT FOR PUBLICATION**

FILED

SEP 23 2021

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| UNITED STATES OF AMERICA,<br><br>Plaintiff-Appellee,<br><br>v.<br><br>DEMETRIS EDWARD DEAN,<br><br>Defendant-Appellant. | No. 21-30058<br><br>D.C. No. 2:15-cr-00022-WFN-1<br><br><br><br>MEMORANDUM* |

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, District Judge, Presiding

Submitted September 14, 2021**

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Demetris Edward Dean appeals pro se from the district court's order denying his motion for a reduction of sentence under 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Dean contends that the district court improperly treated U.S.S.G. § 1B1.13

* 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).

as binding and, as a result, wrongly concluded that its discretion was limited to matters of poor health, age, and family circumstances. Dean is correct that § 1B1.13 is not binding on judicial review of § 3582(c)(1)(A) motions filed by defendants. *See United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021). However, the record belies any argument that the district court viewed § 1B1.13 as binding in this case. The court did not reference or cite § 1B1.13, and there is no indication that the court improperly limited its discretion to the circumstances outlined therein. Rather, the court assumed that some of Dean's arguments for a sentence reduction could be persuasive in the appropriate case, but reasonably concluded that Dean had not demonstrated extraordinary and compelling circumstances warranting a reduction of his below-Guideline sentence. *See* 18 U.S.C. § 3582(c)(1)(A)(i). The district court did not abuse its discretion. *See Aruda*, 993 F.3d at 799.

**AFFIRMED.**