

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 25 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30118

Plaintiff-Appellee,

D.C. No. 4:17-cr-00034-BMM-1

v.

MICHAEL LIRA, AKA Michael Lira
Macias,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Brian Morris, District Judge, Presiding

Submitted January 19, 2022**

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

Michael Lira 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 affirm.

Lira contends that the district court should have granted him compassionate

* 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).

release because he suffers from medical conditions that increase his risk of severe complications from COVID-19, his offense did not involve violence, sex, or terrorism, and he has remained discipline-free over the past year. We conclude that the district court did not abuse its discretion in denying Lira's motion. *See United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021). The court acknowledged Lira's medical issues, but reasonably concluded that Lira had not shown extraordinary and compelling reasons for early release in light of the low incidence of COVID-19 infections at the prison where he is housed and the vaccine rollout. Moreover, the court reasonably concluded that, notwithstanding Lira's mitigating arguments, a reduction to his sentence of almost seven years was not warranted in light of the 18 U.S.C. § 3553(a) sentencing factors. On this record, the district court did not abuse its discretion in denying Lira's motion for compassionate release. *See United States v. Robertson*, 895 F.3d 1206, 1213 (9th Cir. 2018) (district court abuses its discretion only if its decision is illogical, implausible, or without support in the record).

AFFIRMED.