

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 25 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-10196

Plaintiff-Appellee,

D.C. No.

1:16-cr-00069-LHR-SKO-1

v.

JAMES YORK, AKA YD, AKA Jamari
York, AKA York Dog,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Lee H. Rosenthal, District Judge, Presiding**

Submitted May 17, 2022***

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

James York 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

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Lee H. Rosenthal, United States District Judge for the Southern District of Texas, sitting by designation.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 1291. Reviewing for abuse of discretion, *see United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021), we affirm.

York contends that the district court abused its discretion by denying his motion because his asthma puts him at severe risk from COVID-19, and his rehabilitative efforts in prison and release plan show that releasing him to home confinement would satisfy the 18 U.S.C. § 3553(a) sentencing factors. We reject this contention. The district court reasonably concluded that York's asthma did not justify compassionate release, given York's age, vaccination status, and the care he was receiving in prison. Moreover, the court reasonably concluded that, in light of York's criminal history and history of violating conditions of supervision, as well as the danger he posed to the community, the § 3553(a) factors did not support relief. Accordingly, it did not abuse its discretion by denying York's motion. *See Keller*, 2 F.4th at 1284; *see also 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 not supported by the record).

AFFIRMED.