

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 16 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30020

Plaintiff-Appellee,

D.C. No.

v.

2:16-cr-00007-RSM-1

LONNIE EUGENE LILLARD,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, Chief District Judge, Presiding

Submitted June 9, 2022**
Portland, Oregon

Before: SCHROEDER and SUNG, Circuit Judges, and ANTOON,** District Judge.

Defendant-Appellant Lonnie Eugene Lillard appeals the district court's denial of his second compassionate release motion pursuant to 18 U.S.C. §

* 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).

*** The Honorable John Antoon II, United States District Judge for the Middle District of Florida, sitting by designation.

3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291. Reviewing for abuse of discretion, *United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021) (per curiam), we affirm.

The district court denied Lillard’s motion on the ground that the sentencing factors set forth in 18 U.S.C. § 3553(a) did not warrant Lillard’s requested relief. The district court thus declined to consider whether Lillard’s motion set forth “extraordinary and compelling reasons” warranting his release. *See* 18 U.S.C. § 3582(c)(1)(A)(i).

Lillard’s sole claim on appeal is that § 3582(c)(1)(A)(i) required the district court to determine whether “extraordinary and compelling reasons” existed before denying his motion based on the § 3553(a) factors. That argument is now foreclosed. *See Keller*, 2 F.4th at 1284 (“As the government correctly argues, although a district court must perform this sequential inquiry before it *grants* compassionate release, a district court that properly *denies* compassionate release need not evaluate each step.”).

AFFIRMED.