

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 27 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ALEJANDRO ALEX INCERA, AKA  
Alexander Jiminez-Incera,

Defendant-Appellant.

No. 21-10335

D.C. No.

2:18-cr-00169-JCM-NJK-2

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
James C. Mahan, District Judge, Presiding

Submitted June 15, 2022\*\*

Before: SILVERMAN, WATFORD, and FORREST, Circuit Judges.

Alejandro Alex Incera 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 affirm.

Incera contends that the district court should have granted his motion

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\* 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).

because his history of Guillain-Barre syndrome (“GBS”), in combination with his other medical conditions and his mother’s recent cancer diagnosis, constitute an extraordinary and compelling reason for compassionate release. The district court did not abuse its discretion in finding otherwise. *See United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021). As the court explained, Incera’s history of GBS did not justify his refusal to be vaccinated because the Centers for Disease Control and Prevention recommends vaccination for those who have had GBS. Moreover, the record does not support Incera’s assertion that he has other medical issues, such as asthma. Finally, the district court did not abuse its discretion in concluding that the developments with Incera’s mother did not constitute an extraordinary and compelling reason to grant relief.

**AFFIRMED.**