

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30235

Plaintiff-Appellee,

D.C. Nos.

v.

1:15-cr-00065-SPW-1

1:15-cr-00065-SPW

THOMAS GREGORY BAILEY,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted February 9, 2023**
Portland, Oregon

Before: MURGUIA, Chief Judge, and FORREST and SUNG, Circuit Judges.

Defendant Thomas Gregory Bailey (“Defendant”) appeals the district court’s order denying his motion for compassionate release under 18 U.S.C.

§ 3582(c)(1)(A). We review the district court’s denial of compassionate release for abuse of discretion. *United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021). We

* 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).

have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court did not abuse its discretion in denying Defendant's motion for compassionate release. A district court has discretion to deny a motion for compassionate release based solely on an analysis of the factors set forth in 18 U.S.C. § 3553(a). *See United States v. Keller*, 2 F.4th 1278, 1284 (9th Cir. 2021). Here, the district court properly considered the § 3553(a) factors: it considered Defendant's sentence, the sentencing court's stated reasons for making Defendant's sentences consecutive, and Defendant's criminal history. The district court recognized Defendant's good work during his time in prison but concluded that Defendant "still has a significant debt left to pay," and therefore, compassionate release was not warranted.

Because we conclude the district court properly exercised its discretion to deny compassionate release based on an analysis of the § 3553(a) factors, we need not address Defendant's argument regarding his eligibility for safety valve relief under 18 U.S.C. § 3553(f).

AFFIRMED.