

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 24 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VERNELLE LYNN BADBEAR,

Defendant - Appellant.

No. 24-2780

D.C. No. 1:17-cr-00127-SPW-1

MEMORANDUM*

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

Submitted December 17, 2024**

Before: WALLACE, GRABER, and BUMATAY, Circuit Judges.

Vernelle Lynn Badbear appeals pro se from the district court's order denying reconsideration of its denial of her third motion for compassionate release, as well as her fourth motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291. Reviewing for abuse of discretion,

* 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).

see United States v. Wright, 46 F.4th 938, 944 (9th Cir. 2022), we affirm.

The district court determined that, notwithstanding Badbear’s medical conditions and rehabilitative efforts, the 18 U.S.C. § 3553(a) factors did not support a reduction in her already below-Guidelines sentence. Badbear’s contention that the court weighed the § 3553(a) factors incorrectly is insufficient to show that the court abused its discretion. *See Wright*, 46 F.4th at 948; *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). Moreover, contrary to Badbear’s arguments, the court applied the correct legal standard, considered her arguments, adequately explained its decision, and did not rely on any erroneous facts. *See Wright*, 46 F.4th at 948-50. Lastly, Badbear’s assertion that the court was biased is unsupported by the record. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.”).

We do not consider arguments Badbear did not raise before the district court or those that were not sufficiently raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.