NOT FOR PUBLICATION

FILED

OCT 29 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. CHARLES HEAD, Defendant - Appellant.	No. 25-5300 D.C. No. 2:08-cr-00093-KJM-AC-1 MEMORANDUM*

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. CHARLES HEAD, Defendant - Appellant.	No. 25-5301 D.C. No. 2:08-cr-00116-KJM-AC-1

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, District Judge, Presiding

Submitted October 27, 2026**

* 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).

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

In these consolidated appeals, Charles Head appeals from the district court's order denying his second motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Head contends that the district court applied an unduly restrictive definition of caregiver incapacitation under U.S.S.G. § 1B1.13(b)(3)(A) and erred by finding that he was not a suitable caregiver. We do not decide these issues because the district court concluded that, even if Head had established extraordinary and compelling reasons for relief, the 18 U.S.C. § 3553(a) factors weighed against early release. Thus, any error in the court's extraordinary and compelling analysis was harmless. *See United States v. Wright*, 46 F.4th 938, 947-48 (9th Cir. 2022) (holding that an error in the district court's application of U.S.S.G. § 1B1.13 is harmless "if the court properly relied on the 18 U.S.C. § 3553(a) sentencing factors as an alternative basis for its holding").

Head did not raise a distinct challenge to the district court's § 3553(a) analysis in his opening brief. Thus, he waived any such challenge. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.