

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES TROIANO, AKA John Klatt,

Defendant - Appellant.

No. 24-6621

D.C. No.
1:05-cr-00261-
HG-1

OPINION

Appeal from the United States District Court
for the District of Hawaii
Helen W. Gillmor, District Judge, Presiding

Argued and Submitted October 6, 2025
Honolulu, Hawaii

Filed September 14, 2026

Before: M. Margaret McKeown, Michelle T. Friedland, and
Jennifer Sung, Circuit Judges.

Opinion by Judge Sung

SUMMARY*

Criminal Law

The panel affirmed the district court's denial of James Troiano's motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i).

Troiano argued that, because of the combined effect of multiple nonretroactive changes to the Sentencing Guidelines enacted after he was sentenced, he is serving "an unusually long sentence" that is "unreasonably disproportionate" to the sentence he would receive if sentenced today, and that this disparity is an "extraordinary and compelling reason" warranting a sentence reduction and attendant compassionate release.

The district court rejected that argument because the Guidelines policy statement, U.S.S.G. § 1B1.13, precludes courts from considering a nonretroactive change to the Guidelines as an extraordinary and compelling reason warranting a sentence reduction. The § 1B1.13 policy statement implements 28 U.S.C. § 994(t), which directs the United States Sentencing Commission to describe "what should be considered extraordinary and compelling reasons for sentence reduction."

Troiano challenged the policy statement's validity, arguing that § 994(t) does not authorize the Commission to prohibit courts from considering any particular reason that could be "extraordinary and compelling," including such

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

nonretroactive changes. The panel held that the Commission acted within its statutory authority and that the policy statement is valid.

Troiano also argued that, even if the policy statement validly precludes consideration of a single nonretroactive amendment to the Guidelines, it does not prohibit courts from considering the combined effect of multiple nonretroactive amendments. The panel held that the policy statement bars consideration of any nonretroactive amendments, alone or in combination.

COUNSEL

Marshall H. Silverberg (argued) and Edric M. Ching, Assistant United States Attorneys; Kenneth M. Sorenson, Acting United States Attorney; Office of the United States Attorney, United States Department of Justice, Honolulu, Hawaii; for Plaintiff-Appellee.

Craig W. Jerome (argued), First Assistant Federal Defender; Salina M. Kanai, Federal Public Defender; Office of the Federal Public Defender, Honolulu, Hawaii; for Defendant-Appellant.

OPINION

SUNG, Circuit Judge:

Defendant James Troiano appeals the district court's denial of his motion for "compassionate release" under 18 U.S.C. § 3582(c)(1)(A)(i). He argues that, because of the combined effect of multiple nonretroactive changes to the Sentencing Guidelines enacted after he was sentenced, he is serving "an unusually long sentence" that is "unreasonably disproportionate" to the sentence he would receive if sentenced today, and that this disparity is an "extraordinary and compelling reason" warranting a sentence reduction and attendant compassionate release. The district court rejected that argument because the Sentencing Guidelines policy statement, United States Sentencing Guidelines Manual ("U.S.S.G.") § 1B1.13, precludes courts from considering a nonretroactive change to the Guidelines as an extraordinary and compelling reason warranting a sentence reduction. The § 1B1.13 policy statement implements 28 U.S.C. § 994(t), which directs the United States Sentencing Commission to describe "what should be considered extraordinary and compelling reasons for sentence reduction." Troiano challenges the policy statement's validity, arguing that § 994(t) does not authorize the Commission to prohibit courts from considering any particular reason that could be "extraordinary and compelling," including such nonretroactive changes. We conclude that the Commission acted within its statutory authority and that the policy statement is valid. Troiano also argues that, even if the policy statement validly precludes consideration of a single nonretroactive amendment to the Guidelines, it does not prohibit courts from considering the combined effect of multiple nonretroactive amendments. We conclude that the

policy statement bars consideration of any nonretroactive amendments, alone or in combination. Therefore, we affirm.

I. FACTUAL BACKGROUND

A.

Defendant James Troiano is currently serving a 24-year sentence and is scheduled to be released in 2027. In 2005, Troiano and a co-defendant robbed a liquor and convenience store in Waialua, Hawaii. Troiano took approximately \$2,000 in cash from a safe and approximately \$12,500 from an ATM machine. Troiano hit the store owner in the face with a handgun when he first entered the store and then held the owner at gun point. In April 2006, a jury convicted Troiano on four counts: (1) conspiracy to commit Hobbs Act robbery in violation of 18 U.S.C. §§ 1951–52; (2) Hobbs Act robbery in violation of 18 U.S.C. §§ 1951–52; (3) brandishing a firearm during commission of a crime of violence in violation of 18 U.S.C. § 924(c); and (4) being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1), 924(e).

At sentencing, the district court adopted the Guidelines calculations in the Presentence Report (“PSR”). Applying U.S.S.G. § 2B3.1(a) (2005), Troiano’s base offense level for Count 1 was 20. He received an increase of two levels for causing bodily injury, § 2B3.1(b)(3) (2005), two levels for restraint of another person, § 2B3.1(b)(4)(B) (2005), and one level because the loss from the robbery exceeded \$10,000, § 2B3.1(b)(7)(B) (2005), resulting in an adjusted offense level of 25. He also received the career-offender enhancement based on two prior Hawaii state burglary convictions from 1992 and 1999, which, under the Guideline in effect at the time, recast his total offense level to 32. *See* U.S.S.G. § 4B1.1 (2005).

For his criminal history score, Troiano received three points for each of the 1992 and 1999 burglary convictions (six points total), one point for each of two additional burglary convictions accompanying those two burglary convictions (two points total) pursuant to U.S.S.G. § 4A1.1(f) (2005), three points for a 1989 controlled substance felony, two points for committing the offense while on parole pursuant to U.S.S.G. § 4A1.1(d) (2005), and one status point for committing the offense less than two years after his last release from prison pursuant to U.S.S.G. § 4A1.1(e) (2005). The total of 14 criminal history points placed Troiano in criminal history category VI. *See* U.S.S.G. ch. 5, pt. A (sentencing table) (2005). The career-offender enhancement also placed him in category VI, independently of the criminal history points. *See* U.S.S.G. § 4B1.1 (2005).

The Guidelines range for a total offense level of 32 and criminal history category VI was (and still is) 210 to 262 months. U.S.S.G. ch. 5, pt. A (2005). But the career-offender enhancement, combined with the § 924(c) firearm conviction, increased Troiano's Guidelines range to 360 months to life. *See* U.S.S.G. § 4B1.1(c)(2), (3) (2005). The district court varied downward and sentenced Troiano to 204 months (17 years) in custody on Counts 1, 2, and 4, running concurrently, along with a consecutive seven-year mandatory minimum sentence on Count 3, the § 924(c) firearm charge, *see* 18 U.S.C. § 924(c)(1)(A)(ii). Troiano received a total sentence of 288 months (24 years).

B.

Since 2006, when Troiano was sentenced, the United States Sentencing Commission has enacted four amendments to the Guidelines that would significantly

shorten Troiano's sentence—if all four amendments applied retroactively. But only one of those amendments is retroactive, and as we will explain, the retroactive amendment alone does not help Troiano.

First, and most significantly, the Commission removed generic burglary from the list of crimes that count as predicate offenses for the career-offender enhancement. *See* U.S.S.G. § 4B1.2; U.S.S.G. app. C, amend. 798 (Supp. 2016). This amendment is not retroactive. *See* U.S.S.G. § 1B1.10(d). If it were retroactive, Troiano's two state burglary convictions would no longer qualify him for the enhancement, and without the career-offender enhancement, Troiano would have a total offense level of 25, instead of 32.

Second, the Commission increased the minimum loss threshold from \$10,000 to \$20,000. *See* U.S.S.G. app. C, amend. 791 (Supp. 2015). This amendment also is not retroactive. *See* U.S.S.G. § 1B1.10(d). If it were retroactive, the approximately \$14,000 loss from the robbery would no longer trigger a one-point offense level increase. *See* U.S.S.G. § 2B3.1(b)(7)(A) (2005).

Third, the Commission eliminated the provision requiring additional points for a defendant who commits a crime within two years' release from prison. *See* U.S.S.G. app. C, amend. 742 (Supp. 2010). And, fourth, the Commission provided that a defendant receives one point (instead of two) if he commits a crime while under supervision *and* he already has more than seven points; otherwise, he receives zero points. *See* U.S.S.G. app. C, amend. 821, pt. A (Supp. 2023). The 2010 amendment is not retroactive, but the 2023 amendment is. *See* U.S.S.G. § 1B1.10(d). Although the retroactive 2023 amendment reduces Troiano's criminal history score by one point,

standing alone, it does not affect Troiano’s sentence because the career-offender enhancement independently places Troiano in criminal history category VI. *See* U.S.S.G. § 4B1.1(b).

If all four of these amendments were applied to Troiano, his total offense level for Counts 1, 2, and 4 would be 24, and his criminal history score of 12 would place him in category V, resulting in a Guidelines range of 92 to 115 months. *See* U.S.S.G. ch. 5, pt. A. After adding the seven-year mandatory minimum consecutive sentence for his § 924(c) conviction, *see* U.S.S.G. § 2K2.4(b), Troiano’s total Guidelines range today would be 176 to 199 months—significantly lower than his original Guidelines range of 360 months to life and the 288-month sentence he is now serving.

II. STANDARD OF REVIEW

We review a district court’s ruling on a compassionate release motion under 18 U.S.C. § 3582(c)(1) for abuse of discretion. *United States v. Wright*, 46 F.4th 938, 944 (9th Cir. 2022). “A district court may abuse its discretion if it does not apply the correct law or if it rests its decision on a clearly erroneous finding of material fact.” *United States v. Dunn*, 728 F.3d 1151, 1155 (9th Cir. 2013) (quoting *United States v. Lightfoot*, 626 F.3d 1092, 1094 (9th Cir. 2010)). The meaning of a statute is a question of law which we review de novo. *Comcast of Sacramento I, LLC v. Sacramento Metro. Cable Television Comm’n*, 923 F.3d 1163, 1168 (9th Cir. 2019). We also review the interpretation of the Sentencing Guidelines de novo. *United States v. Riewe*, 165 F.3d 727, 728 (9th Cir. 1999).

III. DISCUSSION

A district court has discretion to grant a motion for sentence reduction under the “compassionate release” provision, 18 U.S.C. § 3582(c)(1)(A)(i), if it finds that three requirements are met: (1) “extraordinary and compelling reasons” warrant a sentence reduction; (2) the reduction is “consistent with applicable policy statements issued by the Sentencing Commission”; and (3) the sentence reduction is “warranted under the particular circumstances of the case” considering the factors in 18 U.S.C. § 3553(a). *Wright*, 46 F.4th at 945 (citation modified). The district court may deny the defendant’s motion “if a defendant fails to satisfy any of these” requirements. *Id.*

In 2024, Troiano filed a motion to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A)(i). Troiano raised only one argument: his sentence was “unusually long” and “grossly disproportionate” when compared to the sentence that “would result from using the far lower guideline range that applies to him today.” The district court denied Troiano’s motion because (1) he did not show he was serving an “unusually long sentence” within the meaning of the applicable policy statement, U.S.S.G. § 1B1.13(b)(6) (“Policy Statement”), given that he received a below-guidelines sentence, and (2) the Policy Statement prohibits courts from granting compassionate release based on nonretroactive Guideline amendments.

On appeal, Troiano primarily contends that 28 U.S.C. § 994(t), the statute that the Policy Statement implements, does not give the Commission the authority to prohibit courts from considering nonretroactive Guideline amendments, and therefore, the Policy Statement is invalid. To understand the arguments Troiano makes in support of

his interpretation of the statute and our reasons for rejecting that interpretation, it is helpful to understand the history of the statute, Policy Statement, and related precedents. We first provide that background, and then we address Troiano’s arguments.

A.

As noted, under 18 U.S.C. § 3582(c)(1)(A)(i), a district court may grant a compassionate release motion only if it finds that “extraordinary and compelling reasons warrant” a sentence reduction and that “such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A), (A)(i).

Congress did not define “extraordinary and compelling.” *See id.* Rather, Congress authorized the Commission to promulgate policy statements that “describe what should be considered extraordinary and compelling reasons . . . including the criteria to be applied and a list of specific examples.” 28 U.S.C. § 994(t).

Originally, the compassionate release statute authorized only the Director of the Federal Bureau of Prisons (“BOP”) to file a § 3582(c)(1)(A) motion on the defendant’s behalf. *See United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021) (per curiam). Accordingly, when the Commission first issued a policy statement defining “extraordinary and compelling reasons,” it addressed only compassionate release motions filed by the BOP Director. U.S.S.G. § 1B1.13 (2006). The Commission updated the policy statement in 2007, 2010, 2016, and 2018, but the policy statement continued to address only motions filed by the BOP Director. U.S.S.G. § 1B1.13 (2018) (“2018 § 1B1.13 Policy Statement”).

When Congress passed the First Step Act in late December 2018, it amended the compassionate release statute to authorize a defendant to file such a motion himself. First Step Act of 2018, Pub. L. No. 115-391, § 603(b)(1), 132 Stat. 5194, 5239 (codified at 18 U.S.C. § 3582(c)(1)(A)). However, the Commission lost a quorum shortly after the First Step Act went into effect, and it did not update the 2018 § 1B1.13 Policy Statement to address this change. *See Rutherford v. United States*, 146 S. Ct. 1320, 1328 (2026).

Consequently, when defendants started filing their own motions for compassionate release, courts needed to decide: Was the 2018 § 1B1.13 Policy Statement’s definition of “extraordinary and compelling reasons” applicable to motions brought by defendants or only motions brought by the BOP Director?¹ We held that the 2018 § 1B1.13 Policy Statement was not applicable to defendant-filed motions. *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (per curiam), *superseded in part by* U.S.S.G. § 1B1.13 (2023). Moreover, because there was no applicable policy statement, we held that district courts had broad discretion “to consider any extraordinary and compelling reason for release that a defendant might raise.” *Id.* at 801 (citation modified); *see also United States v. Chen*, 48 F.4th 1092, 1096 n.3, 1098 (9th Cir. 2022) (holding that, in the absence of a binding policy statement to the contrary, a district court could “consider non-retroactive changes in sentencing law, in combination with other factors particular to the individual

¹ The 2018 Policy Statement limited “extraordinary and compelling reasons” to: (1) medical conditions of the defendant; (2) age of the defendant; (3) family circumstances; or (4) any other extraordinary and compelling reason as determined by the BOP Director. *See* U.S.S.G. § 1B1.13, cmt. n.1(A)–(D) (2018).

defendant”), *abrogated by Rutherford*, 146 S. Ct. 1320; *United States v. Roper*, 72 F.4th 1097, 1101–02 (9th Cir. 2023) (holding that a district court could consider changes in decisional law), *abrogated in part by Fernandez v. United States*, 146 S. Ct. 1292 (2026).

In 2023, however, the Commission amended § 1B1.13 “to govern motions by a defendant.” *United States v. Bryant*, 144 F.4th 1119, 1124 (9th Cir. 2025); U.S.S.G. § 1B1.13 (2023). Thus, to the extent *Aruda* and related cases were premised on the fact that there was no policy statement that governed defendant-filed motions, they have been superseded by the 2023 amendment. *See id.* at 1124 n.1 (noting that “*Aruda* has therefore been superseded to the extent that it sets out a different rule for motions filed by defendants after the effective date of the 2023 revisions to § 1B1.13”). Today, courts are bound by the § 1B1.13 Policy Statement in deciding all motions for sentence reduction under § 3582(c)(1)(A). *Id.* at 1124. “If a defendant cannot show ‘extraordinary and compelling reasons’ as defined in [the Policy Statement], then he is ineligible for” a sentence reduction under § 3582(c)(1)(A). *Id.*

As relevant, subsection (b)(6) of the current § 1B1.13 Policy Statement provides:

Extraordinary and compelling reasons exist under any of the following circumstances or a combination thereof:

....

(6) Unusually Long Sentence.—If a defendant received an unusually long sentence and has served at least 10 years of the term of imprisonment, a change in the law

(other than an amendment to the Guidelines Manual that has not been made retroactive) may be considered in determining whether the defendant presents an extraordinary and compelling reason, but only where such change would produce a gross disparity between the sentence being served and the sentence likely to be imposed at the time the motion is filed, and after full consideration of the defendant's individualized circumstances.

U.S.S.G. § 1B1.13(b) (emphasis added).

And, subsection (c) of the § 1B1.13 Policy Statement provides:

Except as provided in subsection (b)(6), *a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) shall not be considered for purposes of determining whether an extraordinary and compelling reason exists under this policy statement.* However, if a defendant otherwise establishes that extraordinary and compelling reasons warrant a sentence reduction under this policy statement, a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive) may be considered for purposes of determining the extent of any such reduction.

U.S.S.G. § 1B1.13(c) (emphasis added).²

B.

Troiano argues that subsections (b)(6) and (c) of the § 1B1.13 Policy Statement “exceed[] the authority that Congress delegated to the Sentencing Commission in [28] U.S.C. § 994(t)” and are therefore invalid. In his view, because § 994(t) expressly grants the Commission authority only to “describe what *should be* considered extraordinary and compelling reasons,” § 994(t) does not grant the Commission authority to specify what may *not* be considered “extraordinary and compelling.” Thus, he argues that the Commission lacked the statutory authority to bar district courts from considering a nonretroactive amendment to the Sentencing Guidelines (or any other particular circumstance that might be “extraordinary and compelling”). The Government argues that § 994(t) gives the Commission authority to define the scope of “extraordinary and compelling reasons” both by specifying what is included and by specifying what is excluded.

The Supreme Court recently considered the scope of the Commission’s authority under § 994(t) to define “extraordinary and compelling reasons” in *Rutherford*, 146 S. Ct. at 1320. Accordingly, we start by considering whether that decision controls here. In *Rutherford*, the issue was whether a nonretroactive statutory sentencing change can serve as an “extraordinary and compelling” reason that warrants a sentence reduction under § 3582(c)(1)(A)(i). Relying on contemporaneous dictionary definitions, the

² This Policy Statement applies to § 3582(c)(1)(A) compassionate release motions filed after November 1, 2023. *Bryant*, 144 F.4th at 1124 n.1; U.S.S.G. app. C, amend. 814 (Supp. 2023). This includes Troiano’s motion, which he filed in June 2024.

Supreme Court concluded that “‘extraordinary and compelling’ reasons for compassionate release are those that are especially unusual and convincing.” *Id.* at 1330. The Supreme Court further concluded that a disparity created by a nonretroactive statutory change “is neither an ‘extraordinary’ nor a ‘compelling’ reason that warrants a reduction in sentence” because the disparity “is an unexceptional feature of a system in which nonretroactivity is the default” and “reflects Congress’s deliberate choice to extend relief to some prisoners and not others.” *Id.* at 1330, 1332. Because such a disparity cannot be “extraordinary” or “compelling” under § 3582(c)(1)(A)(i), the Commission lacked authority under § 994(t) to define “extraordinary and compelling” to include such a disparity. *Id.* at 1334-35. Therefore, the Court held, subsection (b)(6) of the Policy Statement is invalid to the extent it allows district courts to consider the disparity created by a nonretroactive statutory sentencing amendment as a reason for compassion release. *Id.*

Rutherford’s holding does not squarely control here because it addressed statutory amendments enacted by Congress, not Guidelines amendments enacted by the Commission. Further, Troiano’s challenge presents a converse issue: in *Rutherford*, the question was whether the Commission exceeded its authority by *permitting* courts to consider a disparity created by a nonretroactive statutory amendment, *id.* at 1326, whereas here, the question is whether the Commission exceeded its authority by *prohibiting* courts from considering a disparity created by a nonretroactive Guidelines amendment. Still, we are of course bound by the Court’s reasoning, and to the extent that it applies in this case, we abide by it.

We turn to Troiano’s textual argument. Section 994(t) states: “The Commission, in promulgating general policy statements regarding the sentencing modification provisions in [the compassionate release statute,] section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples.” Congress provided only one express limitation: “Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” *Id.* Through § 994(t), “Congress has empowered the Commission to ‘give meaning’ to the compassionate release provision by identifying the circumstances that constitute ‘extraordinary and compelling’ reasons for release.” *Rutherford*, 146 S. Ct. at 1334 (quoting *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024)). “When the best reading of a statute is that it delegates discretionary authority,” our role is to “fix[] the boundaries of the delegated authority, and ensur[e] the agency has engaged in reasoned decisionmaking within those boundaries.” *Loper Bright*, 603 U.S. at 395 (citation modified); *see also Rutherford*, 146 S. Ct. at 1334 (“[T]he Commission’s interpretation must land within the statutory goalposts, no matter how wide they might be.”).

Recall that in Troiano’s view, because § 994(t) (the statutory source of the Commission’s authority) expressly directs the Commission to describe what “should be” considered extraordinary and compelling reasons, the Commission lacks statutory authority to specify what *cannot* be considered extraordinary and compelling reasons. But Congress itself—in § 994(t)—partly defined “extraordinary and compelling reasons” by doing just that—it specified that rehabilitation alone cannot be considered an extraordinary

and compelling reason. Congress’s use of an express exclusion in the authorizing statute suggests that the Commission may also define “extraordinary and compelling” by exclusion. Indeed, it is common to define or clarify a term by specifying what it is not. *See, e.g.*, 47 U.S.C. § 551(a)(2)(A) (“[T]he term ‘personally identifiable information’ does not include any record of aggregate data which does not identify particular persons[.]”). If Congress preferred that the Commission avoid defining “extraordinary and compelling” by exclusion, it could have said so but did not.

The authority Congress gave the Commission to define “extraordinary and compelling” in § 994(t) resembles the authority Congress gave the Commission in other statutes, such as 28 U.S.C. § 994(u). We upheld the Commission policy statement that implements § 994(u), U.S.S.G. § 1B1.10, in *United States v. Tercero*, 734 F.3d 979 (9th Cir. 2013). Section 994(u) provides:

If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, *it shall specify in what circumstances and by what amount* the sentences of prisoners serving terms of imprisonment for the offense may be reduced.

(Emphasis added.) The policy statement that implements § 994(u) provides, in relevant part:

[T]he court *shall not* reduce the defendant’s term of imprisonment under 18 U.S.C.

§ 3582(c)(2) and this policy statement *to a term that is less than the minimum of the amended guideline range* determined under subdivision (1) of this subsection.

U.S.S.G. § 1B1.10(b)(2)(A) (emphases added). Thus, Congress authorized the Commission to specify “in what circumstances” a sentence may be reduced, 28 U.S.C. § 994(u), and the Commission responded by issuing a policy statement specifying in what circumstances a sentence may *not* be reduced—much like the § 1B1.13 Policy Statement at issue here.

Subsequently, in *Tercero*, we held that § 1B1.10(b)’s limitations on sentence reductions were within the scope of the Commission’s authority under § 994(u). 734 F.3d at 983–84 (“[R]ather than conflicting with congressional intent,” § 1B1.10(b)(2)(A) “fall[s] squarely within the scope of Congress’s articulated role for the Commission.”). Although we did not address Troiano’s textual argument in *Tercero*, that argument is at odds with *Tercero*’s holding. Troiano’s textual argument applies equally to § 994(u), and under his reasoning, because § 994(u) expressly authorizes the Commission to specify the circumstances that “may” warrant a sentence reduction, it impliedly prohibits the Commission from specifying the circumstances that may not. Troiano’s view would mean that the Commission lacked the statutory authority to adopt the policy statement that we approved in *Tercero*, but our court held the opposite.

Troiano also argues that, to the extent the Policy Statement precludes courts from considering nonretroactive Guidelines amendments, it conflicts with our prior interpretation of § 994(t) in *United States v. Chen*, 48 F.4th at 1098. Recall that we decided *Chen* when the Policy

Statement addressed only compassionate release motions filed by the BOP Director, not those filed by defendants themselves. *Supra*, pp. 11–12. Because that version of the Policy Statement did not apply to motions filed by defendants, the only authority that limited the district court’s discretion was the statute, § 994(t). *See Chen*, 48 F.4th at 1098. Considering only § 994(t), we concluded that “[t]here is no textual basis for precluding district courts from considering non-retroactive changes in sentencing law when determining what is extraordinary and compelling.” *Id.*

But there are two problems with Troiano’s reliance on *Chen*. First, *Chen*’s holding has been abrogated by the Supreme Court’s recent decision in *Rutherford*—at least to the extent *Chen* applied to nonretroactive statutory changes. *See supra* pp. 11–12, 14–15; *Rutherford*, 146 S. Ct. at 1331 (considering a disparity created by a nonretroactive statutory change to be an “extraordinary and compelling reason” warranting a sentence reduction “would undermine Congress’s choice to leave the sentence intact”). Second, even assuming *Chen*’s holding remains good law to the extent it applies to nonretroactive Guidelines amendments, our court held only that § 994(t) itself does not limit the district court’s discretion to consider nonretroactive changes; we did not hold that the Commission lacks authority to do so. *Chen*, 48 F.4th at 1098. Indeed, we expressly acknowledged in *Chen* that “the definition of extraordinary and compelling is bound by *applicable* policy statements from the Sentencing Commission,” and our holding was premised on “*the absence* of an applicable policy statement from the Sentencing Commission.” *Id.* at 1095–96 (emphases added). An applicable policy statement is now in effect, and it is that policy statement, not § 994(t),

that prohibits consideration of nonretroactive Guidelines amendments.

Troiano also asks us to adopt the reasoning of *United States v. McGee*, 992 F.3d 1035 (10th Cir. 2021), *abrogated in part by Rutherford*, 146 S. Ct. 1320. In *McGee*, the Tenth Circuit held that a district court’s assessment of “extraordinary and compelling reasons” is not bound by the Commission’s policy statements. The Tenth Circuit “conclude[d] that Congress did not, by way of § 994(t) intend for the Sentencing Commission to exclusively define the phrase ‘extraordinary and compelling reasons,’ but rather for the Sentencing Commission to describe those characteristics or significant qualities or features that typically constitute ‘extraordinary and compelling reasons,’ and for those guideposts to serve as part of the general policy statements to be considered by district courts under the second part of the statutory test in § 3582(c)(1)(A).” 992 F.3d at 1045.

Even if we agreed with Troiano that *McGee*’s reasoning is persuasive, we could not adopt its holding because it conflicts with our precedent. We have already held that the Commission’s definition of “extraordinary and compelling” in an applicable § 1B1.13 policy statement is binding on district courts. *See, e.g., Bryant*, 144 F.4th at 1124 (“If a defendant cannot show ‘extraordinary and compelling reasons’ as defined in § 1B1.13, then he is ineligible for” a sentence reduction under § 3582(c)(1)(A)); *Wright*, 46 F.4th at 945 (the defendant must show that his request for compassionate release is “consistent with applicable policy statements issued by the Sentencing Commission”) (citation modified); *see also Dillon v. United States*, 560 U.S. 817,

821 (2010) (holding that the Commission’s § 1B1.10 policy statement is binding on district courts).³

In sum, we conclude that the Commission may, within the scope of its statutory authority under § 994(t), *exclude* a nonretroactive Guidelines amendment from the definition of “extraordinary and compelling reasons for sentence reduction.” Therefore, subsections (b)(6) and (c) of the § 1B1.13 Policy Statement validly bar district courts from considering nonretroactive changes to the Sentencing Guidelines in deciding whether there are “extraordinary and compelling reasons for [a] sentence reduction.” 28 U.S.C. § 994(t).

C.

Troiano alternatively argues that, if the district court is bound by subsections (b)(6) and (c) of the § 1B1.13 Policy Statement, those provisions only prohibit a court from considering “*an* amendment” to the Guidelines (in the singular)—and therefore permit a court to consider the combined effect of *three* nonretroactive Guidelines changes (in the plural). U.S.S.G. § 1B1.13(b)(6), (c) (emphasis added). Again, we are unpersuaded.

When interpreting text, we ordinarily “assume ‘words importing the singular include and apply to several persons,

³ *Dillon* concerned a defendant’s motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), which permits a district court to reduce a defendant’s sentence when it was based on a Guidelines range “‘that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o)’ and made retroactive pursuant to § 994(u).” *Dillon*, 560 U.S. at 823-24 (quoting 18 U.S.C. § 3582(c)(2)). Section 3582(c)(2) permits a sentence reduction only if it “is consistent with applicable policy statements issued by the Sentencing Commission”—much like § 3582(c)(1)(A), the compassionate release statute at issue here.

parties, or things,’ unless ‘context indicates otherwise.’” *United States v. Myers*, 170 F.4th 1180, 1185 (9th Cir. 2026) (quoting 1 U.S.C. § 1); *see also Schott v. Comm’r of Internal Revenue*, 319 F.3d 1203, 1206 (9th Cir. 2003) (“[S]ingulars normally include plurals.”). Applying this well-established interpretive rule, it is clear that the Policy Statement’s reference to “*an* amendment” includes multiple amendments. U.S.S.G. § 1B1.13(b)(6), (c) (emphasis added). Context does not indicate otherwise. If the Commission intended to bar consideration of a *single* nonretroactive amendment to the Guidelines but allow consideration of the combined effect of *multiple* nonretroactive amendments, the Commission likely would have used more specific language to make that clear. We therefore conclude that the Policy Statement prohibits consideration of the combined effect of multiple nonretroactive amendments to the Guidelines.⁴

IV. CONCLUSION

We conclude that subsections (b)(6) and (c) of the § 1B1.13 Policy Statement validly prevent district courts from considering nonretroactive changes to the Sentencing Guidelines in deciding whether there are “extraordinary and compelling reasons for [a] sentence reduction,” 28 U.S.C. § 994(t), and that restriction is binding on district courts considering motions for compassionate release. We also conclude that the combined effect of multiple nonretroactive amendments to the Sentencing Guidelines is not an

⁴ The district court alternatively held that the sentencing factors in 18 U.S.C. § 3553(a) did not support granting Troiano’s motion. Because we conclude that Troiano did not show that extraordinary and compelling reasons warrant a sentence reduction, we do not reach Troiano’s arguments challenging the district court’s § 3553(a) analysis.

extraordinary and compelling reason for compassionate release under that Policy Statement. Accordingly, we affirm the district court's denial of Troiano's motion for compassionate release on that ground.

AFFIRMED.