

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-10064

Plaintiff-Appellee,

D.C. No. 1:01-cr-05146-WBS-1

v.

JESSE RODRIGUEZ,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted November 15, 2022**

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Jesse Rodriguez 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. Reviewing for abuse of discretion, *see United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021), we affirm.

* 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).

Rodriguez contends that the district court erred by requiring him to show that his release would not pose a danger to the public, and by treating U.S.S.G. § 1B1.13 as an applicable policy statement. We agree that the district court erred, *see Aruda*, 993 F.3d at 799, 802, but conclude that the errors were harmless, *see United States v. Wright*, 46 F.4th 938, 946 (9th Cir. 2022) (holding that an *Aruda* error can be harmless). The court did not assess Rodriguez’s dangerousness or rely upon it to deny relief. Moreover, the court considered the merits of all of Rodriguez’s arguments, including those that were not “even remotely similar to any of the bases listed [in § 1B1.13].”

Rodriguez also argues that the district court abused its discretion by concluding that the First Step Act’s change to the “stacking” provision of 18 U.S.C. § 924(c) was not an extraordinary and compelling reason for relief. We disagree. Rodriguez did not receive a stacked sentence and, as the district court explained, any impact the stacking provision might have had on Rodriguez’s decision to accept the plea agreement was entirely speculative, especially given his substantial sentencing exposure even without stacking. Nor did the district court abuse its discretion by concluding that Rodriguez’s medical conditions, when considered along with his “relatively young” age and the medical treatment provided to him in prison, were not an extraordinary and compelling reason justifying compassionate release.

Finally, contrary to Rodriguez’s argument, the record shows that the court fully considered his arguments and explained why it was not persuaded by them. It was not required to say more, nor was it required—once it determined that Rodriguez had not shown extraordinary and compelling reasons for relief—to address the 18 U.S.C. § 3553(a) factors. *See Wright*, 46 F.4th at 947-53 (explaining what constitutes adequate explanation of a decision to deny compassionate release and holding that, because the compassionate release statute’s requirements are conjunctive, “a court may deny compassionate release at any stage of the § 3582(c)(1)(A) pipeline”).

AFFIRMED.