

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-10110

Plaintiff-Appellee,

D.C. No.

v.

3:12-cr-00009-HDM-VPC-1

MICHAEL ALAN DOIEL,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Nevada  
Howard D. McKibben, District Judge, Presiding

Submitted November 15, 2022\*\*

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

Michael Alan Doiel appeals pro se from the district court's order denying his second 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. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021), we affirm.

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\* 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).

Doiel contends that the district court relied on clearly erroneous facts and abused its discretion by denying compassionate release. We disagree. Contrary to Doiel’s argument, the court properly treated U.S.S.G. § 1B1.13 as informative rather than binding. *See United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021). Further, the court’s factual findings were supported by the record, and it did not abuse its discretion by concluding that Doiel’s circumstances were not extraordinary and compelling. *See* 18 U.S.C. § 3582(c)(1)(A)(i). As the court explained, Doiel did not establish that he was the only family member able to care for his ill parents, nor did he show that any current medical issues increase his risk from COVID-19, or that the Bureau of Prisons is currently failing to protect or treat him. In addition, even assuming ineffective assistance of trial counsel is a proper basis for seeking compassionate release, we agree with the district court that the record belies Doiel’s claim.

In light of the foregoing, we need not reach Doiel’s claims regarding the district court’s analysis of the 18 U.S.C. § 3553(a) sentencing factors. *See Keller*, 2 F.4th at 1284. However, the record does not support Doiel’s assertion that the court abused its discretion in weighing those factors. *See United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) (“The weight to be given the various factors in a particular case is for the discretion of the district court.”).

**AFFIRMED.**