

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**September 29, 2021**  
**Christopher M. Wolpert**  
**Clerk of Court**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARRYSSA M. MIDDLETON,

Defendant - Appellant.

No. 21-3093  
(D.C. No. 5:15-CR-40018-DDC-2)  
(D. Kan.)

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**ORDER AND JUDGMENT\***

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Before **BACHARACH, MURPHY, and CARSON**, Circuit Judges.

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After examining the briefs and the appellate record, this court has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). Accordingly, the case is ordered submitted without oral argument.

Proceeding *pro se*, Marryssa Middleton appeals the district court’s denial of her request for compassionate release under 18 U.S.C. § 3582(c)(1)(A), as

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\*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

amended by the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. In 2017, Middleton was sentenced to 336 months' imprisonment after pleading guilty to one count of conspiracy to commit kidnapping resulting in death. In May 2020, the Bureau of Prisons (the "BOP") denied Middleton's request for compassionate release based on her medical conditions and vulnerability to COVID-19. On June 15, 2020, Middleton filed a motion in federal district court pursuant to § 3582(c)(1)(A) seeking compassionate release. The district court denied the motion, concluding "the pertinent sentencing factors in 18 U.S.C. § 3553(a) [did] not favor the reduction" despite the fact Middleton suffers from asthma and other medical conditions. The court recognized Middleton's medical conditions had the potential to increase the severity of her incarceration because of COVID-19, but ultimately concluded she was not entitled to release after serving "barely a fraction of her sentence for an extraordinary and senseless violent crime." Middleton then filed a motion to reconsider which was denied.

Middleton appeals from the district court's refusal to grant her compassionate relief under § 3582(c)(1)(A). This court has reviewed the entire record, including Middleton's filings in the district court and all the court's orders. Based on that review and the applicable law,<sup>1</sup> we conclude there was no abuse of discretion in the district court's decision to deny Middleton's request for compassionate relief based on the factors set out in 18 U.S.C. § 3553(a). *See*

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<sup>1</sup>*United States v. Hald*, 8 F.4th 932 (10th Cir. 2021).

*United States v. Mannie*, 971 F.3d 1145, 1154-55 (10th Cir. 2020) (reviewing the denial of a § 3582(c)(1)(A) motion for abuse of discretion).

The judgments of the district court denying Middleton's motions for early release and for reconsideration are **affirmed**.

ENTERED FOR THE COURT

Michael R. Murphy  
Circuit Judge