

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-6722**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFAEL PARADA-MENDOZA, a/k/a Cheve, a/k/a Chevi, a/k/a Cheby,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, Senior District Judge. (1:08-cr-00132-LO-2)

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Submitted: May 17, 2022

Decided: June 27, 2022

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Before DIAZ and RICHARDSON, Circuit Judges, and FLOYD, Senior Circuit Judge.

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Vacated and remanded by unpublished per curiam opinion.

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Rafael Parada-Mendoza, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rafael Parada-Mendoza appeals the district court’s order denying his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018, Pub. L. No. 115-391, § 603(b)(1), 132 Stat. 5194, 5239 (“the Act”). After sua sponte raising the administrative exhaustion requirements under the Act, the district court determined that Parada-Mendoza had failed to exhaust his administrative remedies and denied the motion without prejudice. We vacate and remand.

A district court may reduce a term of imprisonment under 18 U.S.C. § 3582(c)(1)(A) if “extraordinary and compelling reasons warrant such a reduction.” 18 U.S.C. § 3582(c)(1)(A)(i). A reduction may be granted upon a motion filed by either the Director of the Bureau of Prisons (BOP) or “the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the [BOP] to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A).

We recently held in *United States v. Muhammad*, 16 F.4th 126, 129-30 (4th Cir. 2021), that, “[a]lthough [§ 3582(c)(1)(A)] plainly requires [a prisoner] to complete certain steps before filing his motion [for compassionate release] in the district court, . . . this requirement [is] non-jurisdictional, and thus waived if it is not timely raised.” *Id.* at 129. Because the district court sua sponte raised the administrative exhaustion issue in *Muhammad*, we held that the court reversibly erred when it dismissed Muhammad’s motion for compassionate release “based on the threshold requirement, even assuming [Muhammad] had not completed the prerequisites to suit.” *Id.* at 130.

The district court here did not have the benefit of our decision in *Muhammad* when it sua sponte raised the administrative exhaustion issue and denied Parada-Mendoza's motion for compassionate release on exhaustion grounds. We therefore vacate the court's order denying Parada-Mendoza's motion for compassionate release and remand for further proceedings in light of our decision in *Muhammad*. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*VACATED AND REMANDED*