

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 12, 2022

Lyle W. Cayce
Clerk

No. 21-10033
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MELISSA JO SULLIVAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CV-1371

Before DAVIS, JONES, and ELROD, *Circuit Judges.*

PER CURIAM:*

Melissa Jo Sullivan, a federal prisoner proceeding *pro se*, appeals from the denial of her 18 U.S.C. § 3582(c)(1)(A)(i) motion for compassionate release. In support of her motion, she contends that: (1) she has multiple medical conditions that places her at increased risk for severe illness if she

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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were to contract COVID-19, which, she alleges, is present at her prison; (2) she completed eight years of her sentence, (3) she demonstrated post-sentencing rehabilitation, (4) she accumulated programming credits that justified an early release, (5) she developed a viable post-release plan; and (6) unreliable information was used at her sentencing hearing to calculate the quantity of drugs for which she was responsible.

The district court denied the motion *sua sponte* without receiving a response from the Government. It held that Sullivan had not made the showing required to obtain a reduction in sentence because the circumstances that she described were not extraordinary or compelling. It also noted that, even if these were extraordinary and compelling reasons, a reduction in sentence should still be denied because Sullivan is relatively young, previously had her sentence reduced, and remained a danger to the safety of other people and the community. Further, the district court stated that, after weighing the 18 U.S.C. § 3553(a) factors, the court was “not inclined to grant relief.”

Upon careful review of the record, we discern no abuse of discretion. Although the district court denied the motion prior to this court’s issuance of *United States v. Shkambi*, 993 F.3d 388 (5th Cir. 2021), we find that the district court’s order is not in conflict with that case. While it cited to U.S.S.G. § 1B1.13 at various points in its order, it did not indicate reliance on it. The district court’s order provided multiple alternative reasons for its denial, none of which expressly depended on § 1B1.13. *See United States v. Steele*, 852 F. App’x 147, 148 (5th Cir. 2021) (unpublished); *United States v. Coats*, 853 F. App’x 941, 942–43 (5th Cir. 2021) (unpublished).

The district court’s order is AFFIRMED.