

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 11 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

TIMOTHY BINFORD,

Defendant-Appellant.

No. 20-30147

D.C. No.

2:14-cr-00166-RMP-1

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

TIMOTHY BINFORD,

Defendant-Appellant.

No. 20-30148

D.C. No.

2:00-cr-00099-RMP-1

Appeal from the United States District Court
for the Eastern District of Washington
Rosanna Malouf Peterson, District Judge, Presiding

Submitted August 4, 2021**
San Francisco, California

* 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).

Before: THOMAS, Chief Judge, and HAWKINS and McKEOWN, Circuit Judges.

Timothy Binford appeals from the district court's orders denying his motions for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291. Intervening authority that the district court did not have the benefit of when it denied Binford's motions requires us to vacate the district court's denials and remand.

After the district court's decisions denying relief and the parties' briefing on appeal, this court held that the current version of U.S.S.G. § 1B1.13 is not binding as applied to § 3582(c)(1)(A) motions brought by prisoners. *See United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (per curiam) ("The Sentencing Commission's statements in U.S.S.G. § 1B1.13 may inform a district court's discretion for § 3582(c)(1)(A) motions filed by a defendant, but they are not binding."). It is unclear whether the district court treated U.S.S.G. § 1B1.13 as binding in this case.

In light of our intervening decision in *Aruda*, we vacate and remand so that the district court can reassess Binford's motions for compassionate release under the standard set forth there. *See id.* We offer no views as to the merits of Binford's § 3582(c)(1)(A)(i) motions.

VACATED and REMANDED.