

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30119

Plaintiff-Appellee,

D.C. No. 9:14-cr-00042-DLC-2

v.

DONALD ROSS FOREMAN,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Dana L. Christensen, District Judge, Presiding

Submitted December 14, 2021**

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

Donald Ross Foreman appeals from the district court's order denying his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion, *see United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021), and we affirm.

* 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).

Foreman asserts that he is entitled to compassionate release in light of his medical conditions and because the 18 U.S.C. § 3553(a) factors weigh in favor of release. Contrary to Foreman’s contention, the record reflects that the district court properly considered each of his arguments for release, including the conditions at his facility, the public health concerns generally posed by the COVID-19 pandemic, and the seriousness of his medical conditions. The court concluded, however, that Foreman’s medical conditions were already accounted for in his below-Guidelines sentence and that early release would “denigrate the seriousness of his offense” and was not warranted under the § 3553(a) factors. The court’s conclusion was reasonable in light of the record, and it did not abuse its discretion in denying relief. *See United States v. Robertson*, 895 F.3d 1206, 1213 (9th Cir. 2018) (district court abuses its discretion only if its decision is illogical, implausible, or without support in the record).

AFFIRMED.