

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 23 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-10087

Plaintiff-Appellee,

D.C. No. 1:13-cr-00999-DKW-1

v.

MEMORANDUM\*

JEROME ISAAKO LAUINA,

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Hawaii  
Derrick K. Watson, District Judge, Presiding

Submitted November 15, 2022\*\*

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Jerome Isaako Lauina appeals pro se from the district court's order denying his motion for a sentence reduction. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

To the extent Lauina's motion sought compassionate release, the district

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\* 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).

court properly denied relief because as the government asserts, Lauina failed to exhaust his administrative remedies before filing the motion. *See* 18 U.S.C. § 3582(c)(1)(A); *United States v. Keller*, 2 F.4th 1278, 1282 (9th Cir. 2021) (holding that § 3582(c)(1)(A)’s exhaustion requirement “is mandatory and must be enforced when properly raised by the government”). To the extent Lauina sought relief under section 404 of the First Step Act of 2018, the district court properly concluded that the First Step Act is inapplicable to Lauina because he was sentenced after the enactment of the Fair Sentencing Act. *See* Pub. L. No. 115-391, § 404(b), 132 Stat. 5194, 5222 (2018) (making certain portions of the Fair Sentencing Act retroactive to defendants sentenced before August 3, 2010).

**AFFIRMED.**