

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-10136

Plaintiff-Appellee,

D.C. No. 1:20-cr-00054-HG-1

v.

MEMORANDUM\*

LESLIE NAKI,

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Hawaii  
Helen W. Gillmor, District Judge, Presiding

Submitted November 15, 2022\*\*

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

Leslie Naki appeals pro se from the district court's order denying his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Naki contends that the district court erred in its application of U.S.S.G.

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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).

§ 1B1.13 and did not adequately consider the 18 U.S.C. § 3553(a) factors or Naki's arguments in support of release, including his medical conditions and the need to care for his ailing mother. The record shows, however, that the district court correctly treated § 1B1.13 as advisory. *See United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021). Moreover, the court fully considered all of Naki's arguments and explained why it was not persuaded by them. *See Chavez-Meza v. United States*, 138 S. Ct. 1959, 1965 (2018).

Naki also argues that his circumstances justified compassionate release. The district court did not abuse its discretion in concluding otherwise. *See Aruda*, 993 F.3d at 799. The court reasonably concluded that Naki's health and his mother's health did not constitute extraordinary and compelling circumstances given Naki's vaccination status, the medical care he was receiving in prison, and the care that was available to his mother. *See United States v. Robertson*, 895 F.3d 1206, 1213 (9th Cir. 2018) (stating that the district court abuses its discretion only if its decision is illogical, implausible, or not supported by the record). The court also reasonably concluded that the § 3553(a) factors did not support release due to Naki's criminal history, his history on supervision, and the offense conduct. *See United States v. Keller*, 2 F.4th 1278, 1284 (9th Cir. 2021). Finally, the record does not support Naki's contention that the district court was biased against him.

**AFFIRMED.**