

NOT FOR PUBLICATION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. 22-30052

Plaintiff-Appellee,

D.C. No. 1:19-cr-00153-DLC-1

v.

MEMORANDUM\*

JOSHUA JOHN WELLIVER,

Defendant-Appellant.

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

Submitted November 15, 2022\*\*

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

Joshua John Welliver appeals 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.

Welliver contends that the district court did not fully consider 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 or adequately explain its decision to deny relief. He argues that he is entitled to compassionate release in light of his family circumstances, the difficulties posed by the Bureau of Prisons' COVID-19 restrictions, the 18 U.S.C § 3553(a) factors, and because he is not a danger to the community. We review the district court's denial of compassionate release for abuse of discretion. *See United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021).

The record reflects that the district court treated § 1B1.13 appropriately, considered Welliver's arguments, and sufficiently explained its determination that, although Welliver's concerns about his family were "compelling on a personal level," his family's situation was considered at the time of sentencing and did not constitute an extraordinary and compelling reason for relief. *See Chavez-Meza v. United States*, 138 S. Ct. 1959, 1965-67 (2018). The district court did not abuse its discretion in reaching this conclusion, or in concluding that reducing Welliver's significantly below-Guidelines sentence to time-served would denigrate the seriousness of the offense, pose a danger to the public, and undermine respect for the law. *See* 18 U.S.C. § 3553(a)(2)(A)-(C); *Keller*, 2 F.4th at 1284; *see also United States v. Robertson*, 895 F.3d 1206, 1213 (9th Cir. 2018) (stating that a district court abuses its discretion only where its decision is illogical, implausible, or without support in the record).

**AFFIRMED.**