

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-30118

Plaintiff-Appellee,

D.C. No. 6:11-cr-00020-BMM-1

v.

MEMORANDUM*

THEODORE CASTINE,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted February 14, 2023**

Before: FERNANDEZ, FRIEDLAND, and H.A. THOMAS, Circuit Judges.

Theodore Castine 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. Reviewing for abuse of discretion, *see United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021), 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).

Castine contends that the district court abused its discretion by (1) concluding that his age and medical conditions, together with the ongoing threat from COVID-19, did not constitute extraordinary and compelling reasons for compassionate release, and (2) denying relief under 18 U.S.C. § 3553(a) without any analysis. We disagree. The district court acknowledged Castine’s age and health conditions, but reasonably concluded that Castine’s vaccination mitigated the risk. Moreover, contrary to Castine’s argument, the court adequately analyzed the § 3553(a) factors, reasonably concluding a reduction in Castine’s below-Guidelines sentence would not adequately reflect the seriousness of the offense or provide just punishment. This explanation was sufficient, *see Chavez-Meza v. United States*, 138 S. Ct. 1959, 1965 (2018); *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc) (district court is not required to “tick off” each of the § 3553(a) factors), and the court did not abuse its discretion by 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 not supported by the record).

AFFIRMED.