

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NELSON GAITAN-AYALA,

Defendant - Appellant.

No. 23-465

D.C. No. 1:07-cr-00268-DKW-1

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
J. Michael Seabright, District Judge, Presiding

Submitted December 12, 2023\*\*

Before: WALLACE, LEE, and BUMATAY, Circuit Judges.

Nelson Gaitan-Ayala 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. Reviewing for abuse of discretion, *see United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021), we affirm.

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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)*.

Gaitan-Ayala asserts that he is entitled to compassionate release in light of Amendment 782 and because the court allegedly miscalculated the applicable drug quantity and erroneously applied several enhancements at sentencing. The record shows, however, that the district court considered these arguments and applied the correct legal standard. *See United States v. Wright*, 46 F.4th 938, 948-50 (9th Cir. 2022) (explaining the district court’s procedural obligations in compassionate release proceedings). The district court reasonably concluded that Gaitan-Ayala failed to show extraordinary and compelling reasons for release because his challenges to the calculation of his Guidelines range lack merit and because his sentence is significantly below Guidelines even after application of Amendment 782. The court further determined, and Gaitan-Ayala does not challenge, that relief is unwarranted under the 18 U.S.C. § 3553(a) factors.

On this record, the district court did not abuse its discretion in denying Gaitan-Ayala’s motion. *See Keller*, 2 F.4th at 1284; *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.**