

APPENDIX

A

NOT RECOMMENDED FOR PUBLICATION

No. 21-1208

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SEVERO GARCIA-MEZA,

Defendant-Appellant.

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FILED
Jul 07, 2021
DEBORAH S. HUNT, Clerk

ORDER

Before: NORRIS, DONALD, and THAPAR, Circuit Judges.

Severo Garcia-Meza, a federal prisoner proceeding *pro se*, appeals the district court's order denying his motion for compassionate release filed under 18 U.S.C. § 3582(c)(1)(A). This case has been referred to a panel of the Court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In July 2003, a jury convicted Garcia-Meza of first-degree murder, in violation of 18 U.S.C. § 1111(a), and assault with a dangerous weapon, in violation of 18 U.S.C. § 113(a)(3), offenses committed against members and within the jurisdiction of the Grand Traverse Band of Ottawa and Chippewa Indians. *See* 18 U.S.C. § 1152. The district court sentenced Garcia-Meza to life imprisonment. We affirmed Garcia-Meza's conviction. *United States v. Garcia-Meza*, 403 F.3d 364 (6th Cir. 2005). Garcia-Meza is currently 51 years old and imprisoned at FCI Cumberland. *See Find an Inmate*, Federal Bureau of Prisons, <https://www.bop.gov/inmateloc> (last visited June 1, 2021).

In December 2020, Garcia-Meza filed a *pro se* motion for compassionate release under § 3582(c)(1)(A), asserting that his health conditions, including hypertension, high cholesterol, type 2 diabetes, and obesity, increase his risk of contracting COVID-19 and suffering severe illness from the virus. The district court denied Garcia-Meza’s motion. The district court assumed that Garcia-Meza had demonstrated extraordinary and compelling reasons to warrant compassionate release but determined that the factors under 18 U.S.C. § 3553(a) did not favor his release. This appeal followed.

We review a district court’s denial of compassionate release under § 3582(c)(1)(A) for an abuse of discretion. *United States v. Ruffin*, 978 F.3d 1000, 1005 (6th Cir. 2020). “An abuse of discretion occurs when the district court ‘relies on clearly erroneous findings of fact, uses an erroneous legal standard, or improperly applies the law.’” *United States v. Elias*, 984 F.3d 516, 520 (6th Cir. 2021) (quoting *United States v. Flowers*, 963 F.3d 492, 497 (6th Cir. 2020)).

The compassionate-release statute authorizes the district court to reduce a defendant’s sentence if it finds (1) that “extraordinary and compelling reasons warrant such a reduction”; (2) that the “reduction is consistent with applicable policy statements issued by the Sentencing Commission”; and (3) that the sentencing factors under 18 U.S.C. § 3553(a), to the extent that they apply, support the reduction. 18 U.S.C. § 3582(c)(1)(A); *see Ruffin*, 978 F.3d at 1004-05. “[D]istrict courts may deny compassionate-release motions when any of the three prerequisites listed in § 3582(c)(1)(A) is lacking and do not need to address the others.” *Elias*, 984 F.3d at 519.

Garcia-Meza argues on appeal that he has established extraordinary and compelling reasons to warrant compassionate release and that the district court refused to address his medical conditions and the COVID-19 outbreak at FCI Cumberland. But the district court assumed that Garcia-Meza had demonstrated extraordinary and compelling reasons to warrant compassionate release, recognizing that he suffers from medical conditions that increase the risk for serious illness from COVID-19.

The district court instead found that the § 3553(a) factors did not favor Garcia-Meza’s release. *See Ruffin*, 978 F.3d at 1008 (“We have repeatedly recognized that district courts may

deny relief under the § 3553(a) factors even if ‘extraordinary and compelling’ reasons would otherwise justify relief.”). When reviewing the district court’s discretionary decision to deny a sentence reduction based on the § 3553(a) factors, we consider the entire sentencing record, “including the records from the original sentencing, records on the modification motion, and the final compassionate release decision.” *United States v. Jones*, 980 F.3d 1098, 1112 (6th Cir. 2020); *see Elias*, 984 F.3d at 520; *Ruffin*, 978 F.3d at 1008. Overall, the record should reflect that the district court “considered the parties’ arguments and ha[d] a reasoned basis for exercising [its] own legal decision-making authority.” *Ruffin*, 978 F.3d at 1008 (alterations in original) (quoting *Chavez-Meza v. United States*, 138 S. Ct. 1959, 1967 (2018)).

The district court first addressed the nature and circumstances of Garcia-Meza’s offense. *See* 18 U.S.C. § 3553(a)(1). The district court characterized Garcia-Meza’s offense as “particularly unsettling,” noting that he had been convicted of murdering his wife and had assaulted her at least once before her death. The district court quoted the trial judge’s description of the offense: “Defendant, while sober, took a steak knife, hid the knife in his coat, walked a prolonged distance with it before entering the victim’s mother’s house, and stabbed the victim in the heart due to jealousy and other petty grievances.” The district court found that “the sentence as currently imposed adequately reflects the seriousness of the offens[e]” and that “a reduction today would undermine that.” *See id.* § 3553(a)(2)(A). The district court also found that a reduction would result in sentencing disparities. *See id.* § 3553(a)(6).

Garcia-Meza does not dispute the seriousness of his offense but argues that his imprisonment during the COVID-19 pandemic increased the severity of his sentence beyond what was originally anticipated. Garcia-Meza further contends that his rehabilitative efforts and good conduct while imprisoned demonstrate that he is not a danger to the community and that his age makes him less likely to recidivate. Based on the record, however, the district court reasonably concluded that the seriousness of Garcia-Meza’s offense outweighed other pertinent factors. We have recognized that “district courts have wide latitude to deny compassionate release based on the seriousness of the underlying offense.” *United States v. Wright*, 991 F.3d 717, 719 (6th Cir.

2021). Given that Garcia-Meza was convicted of murder and assault with a dangerous weapon, the district court's emphasis on the seriousness of his offense was warranted.

In a compassionate-release proceeding, the district court "is best situated to balance the § 3553(a) factors," *Jones*, 980 F.3d at 1114 (quoting *United States v. Kincaid*, 802 F. App'x 187, 189 (6th Cir. 2020) (order)), and Garcia-Meza has failed to demonstrate that the district court abused its discretion in balancing those factors here. Accordingly, we **AFFIRM** the district court's order denying Garcia-Meza's motion for compassionate release.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

APPENDIX

B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
) No. 1:02-cr-56
-v-)
) Honorable Paul L. Maloney
SEVERO GARCIA-MEZA,)
Defendant.)

ORDER DENYING MOTION FOR COMPASSIONATE RELEASE

Defendant Severo Garcia-Meza is serving a life sentence for first-degree murder (see ECF No. 198). Garcia-Meza has filed a motion for compassionate release (ECF No. 232) and a motion seeking the appointment of counsel for the same (ECF No. 233). For the reasons to be explained, both motions will be denied.

Garcia-Meza requests that the Court grant him compassionate release from prison. He fears that if he stays in prison, he will contract COVID-19, the coronavirus disease declared a pandemic by the World Health Organization on March 11, 2020 and declared a national emergency by President Trump on March 20, 2020. Garcia-Meza is currently incarcerated at Cumberland FCI, located in Cumberland, Maryland. The BOP reports that 12 inmates and 10 staff members are currently infected with the virus; 378 prisoners and 40 staff members have been infected but have since recovered. *See COVID-19 Cases, Federal Bureau of Prisons, www.bop.gov/coronavirus (last visited February 11, 2021).*

“Federal courts are forbidden, as a general matter, to ‘modify a term of imprisonment once it has been imposed,’ 18 U.S.C. § 3582(c); but the rule of finality is subject to a few

narrow exceptions." *Freeman v. United States*, 546 U.S. 522, 526 (2011); *see United States v. Curry*, 606 F.3d 323, 326 (6th Cir. 2010). In the First Step Act, Congress amended 18 U.S.C. § 3582(c)(1)(A), the provision authorizing compassionate release. Prior to the amendments, only the Bureau of Prisons could file a motion with the Court seeking compassionate release. *See, e.g., Crowe v. United States*, 430 F. App'x 484, 484-85 (6th Cir. 2011) (per curiam). As amended, the statute now permits prisoners to file a motion with the court subject to certain limitations. The statute allows a prisoner to seek relief in the courts "after the defendant has exhausted all administrative rights to appeal a failure by the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier . . ." 18 U.S.C. § 3582(c)(1)(A). The Sixth Circuit interprets the exhaustion requirement as a mandatory claims-processing requirement. *United States v. Alam*, 690 F.3d 831, 833 (6th Cir. 2020).

The compassionate release provision requires (1) a finding of "extraordinary and compelling reasons," for a sentence reduction, (2) a finding that the reduction is consistent with applicable Sentencing Commission policy statements, and (3) a consideration the factors set forth in § 3553(a). 18 U.S.C. § 3582(c)(1)(A); *United States v. Jones*, 980 F.3d 1098 (6th Cir. 2020); *United States v. Ruffin*, 978 F.3d 1000, 1004-05 (6th Cir. 2020). In *Jones*, the Sixth Circuit found that the policy statement issued by the Sentencing Commission, § 1B1.13, is not applicable to motions filed by prisoners. *Jones*, 980 F.3d at 1108. The Court stated that, until the Sentencing Commission updates its policy statement to reflect the First

Step Act, district courts may “skip” step two of the inquiry. *Id.* at 1111. The decision to grant or deny a motion for compassionate release falls with the district court’s discretion. *Id.*

Garcia-Meza has exhausted his administrative remedies: he submitted a request to the warden at Cumberland FCI on October 13, 2020; that request was denied on October 27, 2020. And the Court will assume that Garcia-Meza has demonstrated that “extraordinary and compelling reasons” exist to warrant compassionate release. Garcia-Meza suffers from diabetes and hypertension, both of which are conditions that place individuals at a higher risk for serious illness should they contract Covid-19. *See People with Certain Medical Conditions, Centers for Disease Control and Prevention,* <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last visited February 11, 2021).

However, the Court finds that the § 3553(a) factors do not favor release. Garcia-Meza was convicted for the murder of his wife, and his criminal history reveals that he assaulted her at least once before her death. The Court finds the crime committed particularly unsettling. In the words of Judge Richard Alan Enslen: “Defendant, while sober, took a steak knife, hid the knife in his coat, walked a prolonged distance with it before entering the victim’s mother’s house, and stabbed the victim in the heart due to jealousy and other petty grievances.” (see ECF No. 214 at PageID.83-84.) The Court finds that the sentence as currently imposed adequately reflects the seriousness of the offence; a reduction today would undermine that. Further, a reduction would result in sentencing disparities contrary to § 3553(a)(6). Therefore, the Court finds that Garcia-Meza has not met the requirements for compassionate release. Accordingly, his motion will be denied. Further, because Garcia-

Meza's compassionate release motion is meritless, the Court will deny his request for counsel. Accordingly,

IT IS HEREBY ORDERED that Defendant's motions (ECF Nos. 232, 233) are **DENIED**.

IT IS SO ORDERED.

Date: February 12, 2021

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge

APPENDIX

C

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: August 13, 2021

Severo Garcia-Meza
F.C.I. Cumberland
P.O. Box 1000
Cumberland, MD 21501

Re: Case No. 21-1208, *USA v. Severo Garcia-Meza*
Originating Case No.: 1:02-cr-00056-1

Dear Mr. Garcia-Meza,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Beverly L. Harris
En Banc Coordinator
Direct Dial No. 513-564-7077

cc: Ms. Jennifer Lee McManus

Enclosure

No. 21-1208

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Aug 13, 2021
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SEVERO GARCIA-MEZA,

Defendant-Appellant.

ORDER

BEFORE: NORRIS, DONALD, and THAPAR, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

John S. Smith

Deborah S. Hunt, Clerk

APPENDIX

D

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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Filed: August 23, 2021

Mr. Thomas Dorwin
U.S. District Court
for the Western District of Michigan at Marquette
202 W. Washington Street
P.O. Box 698
Marquette, MI 49855-0000

Re: Case No. 21-1208, *USA v. Severo Garcia-Meza*
Originating Case No. 1:02-cr-00056-1

Dear Clerk,

Enclosed is a copy of the mandate filed in this case.

Sincerely,

s/Gretchen S. Abruzzo, Case Manager for
Leon Korotko, Case Manager
Direct Dial No. 513-564-7069

cc: Mr. Severo Garcia-Meza
Ms. Jennifer Lee McManus

Enclosure

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No: 21-1208

Filed: August 23, 2021

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SEVERO GARCIA-MEZA

Defendant - Appellant

MANDATE

Pursuant to the court's disposition that was filed 07/07/2021 the mandate for this case hereby issues today.

COSTS: None