

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR422-065
	)	
DARA BUCK	)	
	)	

**GOVERNMENT’S RESPONSE IN OPPOSITION TO
DEFENDANT’S SECOND 18 U.S.C. § 3582(c)(1)(A) MOTION**

Defendant Dara Buck,¹ for the second time, moves for early release under 18 U.S.C. § 3582(c)(1)(A). (Doc. 53.) This time she focuses exclusively on family circumstances—the need to care for her three minor children—as her “extraordinary and compelling reason.”² But, this Court should continue to deny her motion.

First, Buck has not established an “extraordinary and compelling reason” under U.S.S.G. § 1B1.13 and application note 1. *See United States v. Bryant*, 996 F.3d 1243, 1262 (11th Cir. 2021), *cert. denied*, 142 S. Ct. 583 (2021). Under the guidelines, “[t]he death or incapacitation of the caregiver of the defendant’s minor

¹ Buck is currently located at FPC Alderson with a projected release date of March 13, 2026. *See* BOP Inmate Locator, *available at* <https://www.bop.gov/inmateloc/> (last visited Aug. 28, 2023). Projected release date indicates release from BOP custody and may not reflect date by which BOP will consider defendant for placement in a halfway house, a residential reentry center or home confinement.

² In her motion, Buck mentions that her 21-year-old daughter is currently caring for her three other sisters, who are 17, 13, and 10. (Doc. 53 at 1.) However, the PSR notes that the 17-year-old daughter was living with her father in Arizona and that Buck is court-ordered to pay him child support. (PSR ¶ 40.)

child or minor children” qualifies as an “extraordinary and compelling reason.” U.S.S.G. § 1B1.13, app. n. 1(C)(i). While Buck contends that her aunt “abandoned” her children “due to her physical and mental health,” this does not allege either “death” or “incapacitation.”³ (Doc. 53 at 1.) Moreover, Buck provides no evidence supporting this allegation or the severity of her aunt’s supposed conditions. *See United States v. Granda*, 852 F. App’x 442, 446 (11th Cir. 2021) (“What’s more, it was *Granda*’s burden to show that his circumstances warranted a reduction.”); *see also United States v. Hamilton*, 715 F.3d 328, 337 (11th Cir. 2013).

Further, Buck explains that her 21-year-old daughter is now caring for the minor children. (Doc. 53 at 1.) Again, Buck does not allege that her 21-year-old daughter is currently dead or incapacitated—only that she “could be facing prison time” in the future. (Doc. 53 at 1.) *Cf. United States v. Oneal*, No. 20-13533, 2021 WL 5894858, at *2 (11th Cir. Dec. 14, 2021) (“§ 1B1.13 provides that an extraordinary and compelling reason exists if the defendant ‘is’ suffering from a serious physical or medical condition that diminishes the ability of the defendant to provide self-care in prison or from which he is not expected to recover, not if the defendant is at risk of suffering from such a condition.”); *United States v. Moreno*, No. 21-14411, 2022 WL 4127451, at *2 (11th Cir. Sept. 12, 2022) (holding that “health conditions that *might* make a COVID-19 infection worse do not rise to the level of an extraordinary and compelling reason”). Also, the fact that Buck does not “trust her judgment” is not a

³ “Incapacitation” is defined as “[t]he quality, state, or condition of being disabled or lacking legal capacity.” Black’s Law Dictionary (11th ed. 2019).

qualifying reason under § 1B1.13, application note 1(C)(i). And, like her other allegations, Buck provides no evidence in support of these claims.

Additionally, Buck states that she does not have a relationship with her parents. (Doc. 53 at 1.) Her PSR indicates, however, that while she “has had little contact with her mother,” she “maintains a positive relationship with her father with regular monthly contact.” (PSR ¶ 38.) The PSR also states that Buck has an adult brother. (PSR ¶ 38.) As such, Buck fails to demonstrate that there is no one else available to care for her minor children. *See United States v. Spencer*, No. CR 418-171, 2021 WL 43999, at *3 (S.D. Ga. Jan. 5, 2021) (“The Court finds that Defendant has failed to provide sufficient evidence that he is the only family member caregiver capable of carrying for his children.”); *United States v. Bowers*, No. CR 220-030, 2021 WL 1187080, at *3 (S.D. Ga. Mar. 29, 2021) (holding defendant failed to demonstrate “extraordinary and compelling” reason where he admitted “he is not the only available caregiver for his children”); *United States v. Lambert*, No. CR 116-079, 2020 WL 5949627, at *2 (S.D. Ga. Oct. 7, 2020) (denying Lambert’s motion for compassionate release because he presented no verifiable evidence of incapacitation for the caregiver of his minor children).

Lastly, this Court just denied Buck’s first § 3582(c)(1)(A) motion on June 30, 2023. (Doc. 52.) There, the Court explained that, based on its analysis of the 18 U.S.C. §3553(a) factors, it would not grant a sentence reduction, even if Buck had established an “extraordinary and compelling reason.” (Doc. 52 at 6-7.) *See United States v. Giron*, 15 F.4th 1343, 1347 (11th Cir. 2021); *United States v. Tinker*, 14 F.4th

1234, 1237-38 (11th Cir. 2021). The Court noted that “Buck pled guilty to [] a serious crime for which she received a substantial but justified sentence.” (Doc. 52 at 7.) Even so, “Buck’s sentence was far less than it could have been but for the generous plea offer from the Government and the Court’s granting of a downward variance.” (Doc. 52 at 7.) *See United States v. Lewis*, No. 21-10100, 2021 WL 4955849, at *1 (11th Cir. Oct. 26, 2021) (holding district court did not abuse its discretion denying § 3582(c)(1)(A) when it considered that defendant “‘already benefitted from’ a downward variance”). It concluded that, after “review[ing] all of the Section 3553(a) factors,” Buck’s motion should be denied. *See United States v. Deorio*, No. 20-13723, 2021 WL 3671127, at *1 (11th Cir. Aug. 19, 2021) (“[A] district court is not required to articulate its reasoning in great detail, as long as the record reflects that it considered the applicable § 3553(a) factors.”).

Only two months later, Buck does nothing to rebut the Court’s § 3553(a) analysis. To the contrary, the Court’s prior analysis, as well as the government’s previous § 3553(a) argument which is incorporated here (Doc. 49 at 12-15), continues to support the denial of Buck’s current sentence reduction request.

For the foregoing reasons, the United States respectfully requests that Defendant's § 3582(c)(1)(A) motion (Doc. 53) be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On August 29, 2023, I filed this response through this Court's ECF system and served all parties through the Notice of Electronic Filing. In addition, my office mailed a paper copy to:

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