

JUL 23 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEON LORENZO LYONS,

Defendant - Appellant.

No. 08-10007

D.C. No. CR-95-00286-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Deon Lorenzo Lyons appeals pro se from the district court's order denying his 18 U.S.C. § 3582(c)(2) motion for modification of sentence. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Lyons contends that Amendment 599 to the United States Sentencing Guidelines, amending the commentary to U.S.S.G. § 2K2.4, entitles him to be resentenced without a two-level enhancement for possession of a firearm. The district court did not err in denying the motion because Lyons was not convicted under 18 U.S.C. § 924(c), and therefore § 3582(c)(2) does not apply. *See United States v. Hicks*, 472 F.3d 1167, 1168 (9th Cir. 2007).

AFFIRMED.