

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NOT FOR PUBLICATION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.

JOSE NAVARRETE,

Defendant - Appellant.

No. 08-30143

D.C. No. 3:91-cr-01041-FDB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Franklin D. Burgess, District Judge, Presiding

Submitted July 14, 2009\*\*

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

Jose Navarrete 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.

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\* 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).

Navarrete contends that Amendment 706 to the United States Sentencing Guidelines, retroactively amending U.S.S.G. § 2D1.1 with respect to offenses involving cocaine base, entitled him to a full resentencing proceeding. The district court did not err in denying the motion because the amendment only reduced Navarrete's base offense level and did not lower the applicable Guidelines range, as required by § 3582(c)(2). *See United States v. Leniear*, 568 F.3d 779, 783-84 (9th Cir. 2009).

**AFFIRMED.**