

OCT 26 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>RAYMOND STEWART,</p> <p>Defendant - Appellant.</p>

No. 08-10393

D.C. No. 2:92-cr-00110-PMP

MEMORANDUM*

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

Submitted October 13, 2009**

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Raymond Stewart appeals from the district court’s order denying his 18
U.S.C. § 3582(c)(2) motion to reduce his sentence. We have jurisdiction pursuant

* 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).

to 28 U.S.C. § 1291. *United States v. Colson*, 573 F.3d 915 (9th Cir. 2009) (order).

We affirm.

Stewart contends that the district court abused its discretion when it denied the motion after considering Stewart's history and characteristics, including Stewart's escape from federal prison while serving time for the sentence he sought to be reduced. The district court properly took these facts into account when it considered the factors of 18 U.S.C. § 3553(a), and did not abuse its discretion by denying the motion. *See* 18 U.S.C. § 3582(c)(2); *Colson*, 573 F.3d at 916 (abuse of discretion standard of review).

AFFIRMED.