

OCT 26 2009

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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NOT FOR PUBLICATION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>JESUS JUVENAL VASQUEZ-LUJANO,</p> <p>Defendant - Appellant.</p>
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No. 08-30315

D.C. No. 1:95-cr-00045-EJL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Idaho  
Edward J. Lodge, District Judge, Presiding

Submitted October 13, 2009\*\*

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

Jesus Juvenal Vasquez-Lujano appeals pro se from the order denying his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). 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).

In his opening brief, Vasquez-Lujano fails to develop any argument concerning the district court's order. Rather, he raises new issues that he did not raise in his § 3582 motion. Vasquez-Lujano has therefore waived any argument concerning the denial of his § 3582 motion, *see United States v.*

*Labrada-Bustamante*, 428 F.3d 1252, 1264 (9th Cir. 2005), and we decline to consider new issues he raises on appeal, *see United States v. Cade*, 236 F.3d 463, 467 (9th Cir. 2000).

In any event, the district court properly declined to resentence Vasquez-Lujano under § 3582, because the amendment to the Guidelines that was the basis of the motion was not made retroactive by the Sentencing Commission. *See* 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10.

**AFFIRMED.**