

DEC 17 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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>JOSE MANUEL ARCINIEGA, AKA Jessie Gonzalez-Rodriguez,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 08-10427

D.C. No. 2:94-cr-00251-GEB

MEMORANDUM \*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, District Judge, Presiding

Submitted November 17, 2009\*\*

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Jose Manuel Arciniega appeals pro se from the district court’s order denying his 18 U.S.C. § 3582(c)(2) motion for reduction 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).

Arciniega contends that the district court erred when it denied his 18 U.S.C. § 3582(c)(2) motion for a sentence reduction under Amendment 709 to U.S.S.G. § 4A1.2(c)(1)(A). Because that Amendment is not referenced by U.S.S.G. § 1B1.10(c), Arciniega is not eligible for a sentence reduction under § 3582(c)(2). *See* 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(a) (2008); *United States v. Cueto*, 9 F.3d 1438, 1440-41 (9th Cir. 1993).

**AFFIRMED.**