

SEP 29 2010

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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NOT FOR PUBLICATION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>MEDORA NANOFF,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 09-30154

D.C. No. 1:06-cr-00016-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Medora Nanoff appeals from the district court's order denying her 18 U.S.C. § 3582(c)(2) motion for a reduced sentence. We have jurisdiction under 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Nanoff contends that the district court erred by failing to lower her sentence in light of Amendment 706 to the United States Sentencing Guidelines. This contention fails because Nanoff's sentence was based on a mandatory minimum. *See United States v. Jackson*, 577 F.3d 1032, 1034-35 (9th Cir. 2009). Nanoff's arguments that her case is distinguishable from *Jackson* and that *United States v. Auld*, 321 F.3d 861 (9th Cir. 2003), has been overruled are also without merit. *See Jackson*, 577 F.3d at 1034-35.

AFFIRMED.