

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NOT FOR PUBLICATION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>DWIGHT ANTHONY WEEMS,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 09-30271

D.C. No. 2:02-cr-00292-JCC

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, District Judge, Presiding

Submitted September 13, 2010**

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

Dwight Anthony Weems appeals from the district court’s order denying his 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).

Weems contends that the district court erred by denying his motion for a reduction in his sentence, which was imposed upon revocation of supervised release, because it is part of his original sentence for which the Sentencing Guidelines range has been lowered. Assuming, without deciding, that his notice of appeal is timely, *see United States v. Sadler*, 480 F.3d 932, 936 (9th Cir. 2007), Weems' arguments are foreclosed by *United States v. Morales*, 590 F.3d 1049 (9th Cir. 2010).

AFFIRMED.