

DEC 27 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY LEON JOHNSON,

Defendant - Appellant.

No. 11-10085

D.C. No. 1:03-cr-05053-AWI

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, Chief Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Anthony Leon Johnson appeals from the denial of his motion to reconsider his 240-month 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).

Johnson contends that the district court improperly denied his motion to reconsider his sentence pursuant to 18 U.S.C. § 3582(c) by failing to consider a sentence outside of the career offender guidelines. The district court did not have jurisdiction to resentence Johnson based on his § 3582(c) motion because Johnson was sentenced pursuant to Guideline § 4B1.1. *See United States v. Wesson*, 583 F.3d 728, 730-32 (9th Cir. 2009).

Johnson also contends that his sentence was substantively unreasonable. In Johnson's previous appeal, this court already determined that his 240-month sentence was reasonable.

AFFIRMED.