

SEP 21 2012

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>SHERARD W. HENDERSON,</p> <p>Defendant - Appellant.</p>
--

No. 12-30003

D.C. No. 2:08-cr-00099-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Robert H. Whaley, District Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Sherard W. Henderson appeals from the district court’s order denying his 18 U.S.C. § 3582(c)(2) motion for reduction of 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).

Henderson contends that the district court abused its discretion by denying his motion to reduce his sentence. He asserts that, by denying the motion on the basis of his criminal history, the district court improperly double counted his criminal history. Contrary to Henderson's contention, the district court properly denied his motion based on public safety considerations. *See* U.S.S.G. § 1B1.10 cmt. n.1(B)(ii); *United States v. Lightfoot*, 626 F.3d 1092, 1096 (9th Cir. 2010).

AFFIRMED.