

SEP 21 2012

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NOT FOR PUBLICATION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.

JULIUS DARNELL ROBERTS,

Defendant - Appellant.

No. 12-30031

D.C. No. 2:02-cr-00282-FVS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted September 10, 2012**

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

Julius Darnell Roberts 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).

Roberts contends that the district court abused its discretion by denying his motion to reduce his sentence because the court double counted his criminal history and failed to consider adequately his post-conviction rehabilitation. The court considered Roberts's post-conviction rehabilitation and properly based its decision on public safety considerations and the need for deterrence. *See* U.S.S.G. § 1B1.10 cmt. n.1(B); *United States v. Lightfoot*, 626 F.3d 1092, 1096 (9th Cir. 2010).

AFFIRMED.