

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 24 2012

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LASHAWN JERMAINE JOHNSON,

Defendant - Appellant.

No. 12-30071

D.C. No. 1:06-cr-00079-CCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Charles C. Lovell, District Judge, Presiding

Submitted September 10, 2012**

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

Lashawn Jermaine Johnson appeals from the district court's order granting his motion to reduce his sentence under 18 U.S.C. § 3582(c)(2). 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 the district court procedurally erred by failing to explain the modified sentence and the extent to which it considered his post-conviction rehabilitation efforts. The district court considered the motion for a reduced sentence, which included Johnson's post-conviction rehabilitation arguments, as well as the relevant Guidelines policy statement and the 18 U.S.C. § 3553(a) sentencing factors. Like the two prior sentences the district court imposed, the court again imposed a sentence at the high end of the Guidelines range. Given the nature and seriousness of the danger Johnson poses to the community, in light of the fact that he possessed a firearm, distributed a large quantity of drugs, and twice threatened to shoot people in connection with his drug transactions, the explanation for the sentence is sufficient. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc) (adequate explanation can be inferred from the record).

AFFIRMED.