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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NOT FOR PUBLICATION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.

MARIO ALBERTO VALENZUELA,

Defendant - Appellant.

No. 12-10037

D.C. No. 2:03-cr-00882-SMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Mario Alberto Valenzuela appeals pro se from the district court's order denying his motion for reconsideration of the court's order denying his motion to modify the sentence imposed upon revocation of supervised release. We have

* 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). Accordingly, Valenzuela's request for oral argument is denied.

jurisdiction under 28 U.S.C. § 1291, and we affirm.

Valenzuela contends that the district court erred in denying his motion to reduce his sentence under 18 U.S.C. § 3583(e). Contrary to Valenzuela's contention, section 3583(e) does not permit the district court to modify a custodial sentence. *See* 18 U.S.C. § 3583(e). To the extent Valenzuela asserts that his sentence should be shortened under 18 U.S.C. § 3582(c)(2) because the Guidelines range applicable to his underlying drug offense has been lowered, this claim also fails. *See United States v. Morales*, 590 F.3d 1049, 1051-53 (9th Cir. 2010).

AFFIRMED.