

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 08 2013

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS ISRAEL MARTINEZ,

Defendant - Appellant.

No. 12-50094

D.C. No. 2:08-cr-00688-AHM-21

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
A. Howard Matz, District Judge, Presiding

Argued and Submitted February 7, 2013
Pasadena, California

Before: CALLAHAN, IKUTA, and HURWITZ, Circuit Judges.

Jesus Martinez appeals a district court order denying his motion pursuant to 18 U.S.C. § 3582(c)(2) for reduction of sentence based on the Fair Sentencing Act of 2010 (“FSA”) and subsequent amendments to the Sentencing Guidelines. Martinez’s 60 month sentence was the statutory mandatory minimum at the time of his

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

sentencing. *See* 21 U.S.C. § 841(b)(1)(B) (2006). Because the FSA does not apply to defendants sentenced before its effective date, *United States v. Augustine*, ___ F.3d ___, 2013 WL 1317037 (9th Cir. Apr. 3, 2013), we affirm the district court's order.

AFFIRMED.