

OCT 02 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVEN TROY HICKS,

Defendant - Appellant.

No. 12-50217

D.C. No. 3:02-cr-00625-L

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Steven Troy Hicks appeals pro se from the district court's order denying his motion for reconsideration of its 2009 denial of his motion for sentence reduction 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).

The government contends that Hicks's appeal should be treated as an appeal from the 2009 denial of his motion to reduce his sentence and should, thus, be dismissed as untimely. Contrary to the government's contention, the record makes clear that Hicks is appealing from the district court's order denying his motion for reconsideration of the 2009 order.

On appeal, Hicks reiterates the arguments made in his motion for a sentence reduction. We review a district court's denial of a motion for reconsideration for abuse of discretion. *See United States v. Tapia-Marquez*, 361 F.3d 535, 537 (9th Cir. 2004). Hicks's motion for reconsideration was filed nearly three years after the order denying his motion for reduction of sentence issued and contained no new arguments. Under these circumstances, the district court did not abuse its discretion in denying the motion for reconsideration.

Hicks's motion for extension of time to file his opening brief is denied as moot.

AFFIRMED.