

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NOT FOR PUBLICATION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.

STEVE RANKIN,

Defendant - Appellant.

No. 12-50252

D.C. No. 2:09-cr-00093-CAS

MEMORANDUM\*

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

Submitted, September 24, 2013\*\*

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

Steve Rankin 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.

Rankin contends that he is entitled to a sentence reduction under the Fair

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\* 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).

Sentencing Act and subsequent amendments to the Sentencing Guidelines because a reduction was expressly contemplated in the parties' binding plea agreement under Federal Rule of Criminal Procedure 11(c)(1)(C). We review de novo whether a district court has authority to modify a defendant's sentence under section 3582(c)(2). *See United States v. Austin*, 676 F.3d 924, 926 (9th Cir. 2012).

The district court correctly determined that Rankin is not eligible for a sentence reduction because his sentence was based on a stipulation in the parties' binding plea agreement, and not on a sentencing range that has been subsequently lowered by the Sentencing Commission, as required by section 3582(c)(2). *See id.* 927-28. The plea agreement does not call for Rankin to be sentenced within a particular Guidelines sentencing range nor, contrary to Rankin's contention, is any such Guidelines range expressly used in the agreement or evident from the agreement itself. Accordingly, the district court lacked authority to modify Rankin's sentence under section 3582(c)(2). *See id.* at 928, 930.

**AFFIRMED.**