

DEC 09 2013

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NOT FOR PUBLICATION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.

ELADIO SOTO BOUZA, a.k.a. Fantoma,

Defendant - Appellant.

No. 12-50238

D.C. No. 3:90-cr-00856-JAH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
John A. Houston, District Judge, Presiding

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Eladio Soto Bouza appeals pro se 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. We review de novo whether the district court had

* 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).

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), and we affirm.

Bouza contends that he is entitled to a sentence reduction because the government failed to comply with the requirements of 21 U.S.C. § 851 at his original sentencing. This contention does not support relief under section 3582(c)(2). *See Dillon v. United States*, 130 S. Ct. 2683, 2691 (2010) (section 3582(c)(2) authorizes “only a limited adjustment to an otherwise final sentence and not a plenary resentencing proceeding”). Bouza is not entitled to relief under section 3582(c)(2) because he was sentenced in 1991 to a life term, the statutory mandatory minimum under 21 U.S.C. § 841(b)(1)(A) (1991), and not based on a Guidelines range that was subsequently lowered. *See* 18 U.S.C. § 3582(c)(2); *see also United States v. Augustine*, 712 F.3d 1290, 1295 (9th Cir. 2013) (the Fair Sentencing Act's new mandatory minimums do not apply to defendants who were sentenced before the Act's effective date).

AFFIRMED.