

DEC 30 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NOT FOR PUBLICATION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.

JUAN MANUEL PENA-ANGUIANO,

Defendant - Appellant.

No. 12-10473

D.C. No. 3:08-cr-00091-JSW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted December 17, 2013**

Before: GOODWIN, WALLACE, and GRABER, Circuit Judges.

Juan Manuel Pena-Anguiano appeals pro se from the district court's order denying his pro se motion for a sentence reduction under 18 U.S.C. § 3582(c). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Pena-Anguiano contends that the district court erred by failing to grant his

* 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).

request for a sentence reduction, arguing that he should have received a Guidelines departure under U.S.S.G. § 5K3.1. The government contends that this appeal should be dismissed based on an appeal waiver. We decline to enforce the waiver and instead affirm on the merits. The district court did not err in denying Pena-Anguiano's request for a sentence reduction because he failed to state a valid legal basis for reducing his sentence. *See* 18 U.S.C. § 3582(c).

AFFIRMED.