

MAY 22 2014

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NOT FOR PUBLICATION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.

HOWARD ANTON SMITH,

Defendant - Appellant.

No. 12-50569

D.C. No. 3:09-cr-03394-JM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Howard Anton Smith appeals from the district court's order denying his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2). We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion, *see United States v. Austin*, 676 F.3d 924, 926 (9th Cir. 2012), 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)*.

Smith contends that the district court abused its discretion because it failed to consider all of the 18 U.S.C. § 3553(a) sentencing factors, relied on improper factors, and placed too much weight on his criminal history. This contention is unpersuasive. The record reflects that the district court considered the relevant sentencing factors, did not rely on any improper factors, and adequately explained why a reduction was not warranted. In light of the totality of the circumstances and the section 3553(a) sentencing factors, the district court did not abuse its discretion by denying Smith's motion. *See United States v. Dunn*, 728 F.3d 1151, 1159-60 (9th Cir. 2013); *see also United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) (“The weight to be given the various factors in a particular case is for the discretion of the district court.”).

AFFIRMED.