

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 09 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JEREMIAH CLAY PRESTON,

Defendant - Appellant.

No. 15-30020

D.C. No. 4:05-cr-00121-SEH-2

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted August 31, 2015**
Seattle, Washington

Before: GOODWIN, GOULD, and IKUTA, Circuit Judges.

Jeremiah Clay Preston appeals from the district court's order denying his motion for a reduction of sentence under 18 U.S.C. § 3582(c)(2). We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *United States v. Trujillo*, 713 F.3d 1003, 1008 n.3 (9th Cir. 2013). We vacate and remand.

Preston moved for a reduction of sentence because his sentence was above the amended Sentencing Guidelines range, presenting nonfrivolous arguments based on the factors set forth in 18 U.S.C. § 3553(a). Because the district court failed to explain its reasons for rejecting Preston’s arguments, we vacate the order and remand for further proceedings. *See* 18 U.S.C. § 3582(c)(2) (the district court may “reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission”); *Trujillo*, 713 F.3d at 1009 (“The district court’s duty to consider the § 3553(a) factors necessarily entails a duty to provide a sufficient explanation of the sentencing decision to permit meaningful appellate review.”); *United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc) (“[W]hen a party raises a specific, nonfrivolous argument tethered to a relevant § 3553(a) factor . . . , then the judge should normally explain why he accepts or rejects the party’s position.”).

The parties shall bear their own costs on appeal.

VACATED and REMANDED.