

DEC 15 2015

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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## NOT FOR PUBLICATION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.

RAPHAEL GLAPPION PINKNEY,

Defendant - Appellant.

No. 15-10193

D.C. No. 2:13-cr-00026-MMD

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Miranda M. Du, District Judge, Presiding

Submitted December 9, 2015\*\*

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Raphael Glappion Pinkney appeals pro se 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, and we affirm.

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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).

Pinkney contends that he is entitled to a sentence reduction under Amendment 782 to the Sentencing Guidelines. We review de novo whether a district court had authority to modify a sentence under section 3582(c)(2). *See United States v. Paulk*, 569 F.3d 1094, 1095 (9th Cir. 2009) (per curiam). Pinkney is not entitled to a sentence reduction because his sentence was not “based on a sentencing range that has subsequently been lowered by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2). Rather, his sentence was based on the statutory mandatory minimum under 21 U.S.C. § 841(b)(1)(B)(ii). The district court properly denied relief. *See Paulk*, 569 F.3d at 1095-96.

**AFFIRMED.**