

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 21 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-10293

Plaintiff - Appellee,

D.C. No. 1:08-cr-00104-HG

v.

MEMORANDUM*

JOE DANIELS,

Defendant - Appellant.

Appeal from the United States District Court
for the District of Hawaii
Helen W. Gillmor, District Judge, Presiding

Submitted March 15, 2016**

Before: GOODWIN, LEAVY, and CHRISTEN, Circuit Judges.

Joe Daniels 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. We review de novo whether a district court has authority to modify a sentence under section 3582(c)(2), *see United States v. Leniear*, 574

* 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)*.

F.3d 668, 672 (9th Cir. 2009), and we affirm.

Daniels contends that the district court erred by relying on the policy statements in U.S.S.G. § 1B1.10 to deny his request for a sentence reduction under Amendment 782 to the Sentencing Guidelines. This claim fails. Contrary to Daniels's contention, the limitations placed on the district court's sentencing discretion by section 1B1.10 do not violate the separation of powers doctrine. *See United States v. Davis*, 739 F.3d 1222, 1225-26 (9th Cir. 2014). Moreover, the district court properly concluded that Daniels is ineligible for a sentence reduction because Amendment 782 did not modify his applicable Guideline range. *See* 18 U.S.C. § 3582(c)(2); *Leniear*, 574 F.3d at 673-74.

Daniels's motion for judicial notice is denied as unnecessary.

AFFIRMED.