

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 20 2016

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO HERRERA REYES,

Defendant - Appellant.

No. 15-50169

D.C. No. 3:10-cr-05057-DMS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted June 14, 2016**

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

Antonio Herrera Reyes 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. Dunn*, 728 F.3d 1151, 1155 (9th Cir. 2013), 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)*.

Herrera Reyes contends that the district court abused its discretion by failing to calculate the amended Guidelines range and by declining to reduce his sentence. The record reflects that the court determined that it had discretion to reduce Herrera Reyes's sentence because he was sentenced based on a Guidelines range that was subsequently lowered. The court then considered the 18 U.S.C. § 3553(a) factors, and based on those factors, declined to exercise its discretion to lower Herrera Reyes's sentence. Contrary to Herrera Reyes's contention, the court satisfied its procedural obligations. *See United States v. Lightfoot*, 626 F.3d 1092, 1096 (9th Cir. 2010). Moreover, in light of the nature of Herrera Reyes's offense and his criminal history, the court did not abuse its discretion in denying Herrera Reyes's motion. *See id.*

AFFIRMED.