

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 1 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-10423

Plaintiff-Appellee,

D.C. No. 4:11-cr-00337-JGZ

v.

MEMORANDUM*

ALFREDO LOPEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Jennifer G. Zips, District Judge, Presiding

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Alfredo Lopez 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.*

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2).*

Leniear, 574 F.3d 668, 672 (9th Cir. 2009), and we affirm.

Lopez contends that he is entitled to a sentence reduction under Amendment 782 to the Sentencing Guidelines. Contrary to Lopez's contention, the district court properly calculated his amended guideline range as 51 to 63 months without considering the two-level fast-track departure that the court granted at his original sentencing. See U.S.S.G. § 1B1.10 cmt. n.1(A); *United States v. Ornelas*, No. 15-10522, 2016 WL 3126272, at *5 (9th Cir. June 3, 2016); see also *United States v. Rosales-Gonzales*, 801 F.3d 1177, 1180-83 (9th Cir. 2015) (fast-track reduction is discretionary departure under the Guidelines). Because Lopez received a sentence of 51 months, the district court correctly concluded that Lopez is ineligible for a sentence reduction. See U.S.S.G. § 1B1.10(b)(2)(A) (“[T]he court shall not reduce the defendant’s term of imprisonment under 18 U.S.C. § 3582(c)(2) and this policy statement to a term that is less than the minimum of the amended guideline range.”).

AFFIRMED.