

JAN 25 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

FRANCISCO JAVIER GARCIA,
a.k.a. Beaver,

Defendant-Appellant.

No. 15-50470

D.C. No. 3:05-cr-00199-BEN

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

Francisco Javier Garcia 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.

* 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).

Garcia contends that the district court abused its discretion by denying his motion for a sentence reduction under Amendment 782 to the Sentencing Guidelines. The district court acted within its discretion when it denied Garcia a sentence reduction based on its determination that a reduction would pose a serious threat to the public in light of his significant criminal history and the circumstances of the offense. *See* U.S.S.G. § 1B1.10 cmt. n.1(B); *United States v. Lightfoot*, 626 F.3d 1092, 1096 (9th Cir. 2010). Moreover, contrary to Garcia's contention, the district court considered the 18 U.S.C. § 3553(a) sentencing factors, did not rely on any clearly erroneous facts, and thoroughly explained its determination that a reduction was unwarranted. *See United States v. Trujillo*, 713 F.3d 1003, 1009 (9th Cir. 2013).

AFFIRMED.