

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-50162

Plaintiff-Appellee,

D.C. No. 2:14-cr-00155-JFW

v.

MEMORANDUM*

JESSE EDGARDO HERRERA, a.k.a.
Harald Herrera, a.k.a. Harold Herrera, a.k.a.
Herald Herrera, a.k.a. Jesse B. Herrera,
a.k.a. Jesse Edgar Herrera, a.k.a. Jessie
Herrera,

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Jesse Edgardo Herrera 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

* 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).

jurisdiction under 28 U.S.C. § 1291, and we affirm.

Herrera's plea agreement provided that, if he received the benefit of then-pending Amendment 782 at sentencing, he waived any right to file a later motion for a sentence reduction under that amendment. Contrary to Herrera's contention, the record reflects that the sentencing court granted him the benefit of Amendment 782 by way of a two-level downward variance. Accordingly, the district court correctly concluded that Herrera had waived the right to pursue a further reduction.

AFFIRMED.