

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 17 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-30114

Plaintiff-Appellee,

D.C. No. 2:11-cr-00022-DWM

v.

MEMORANDUM*

CHAD EDWARD NOZISKA,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted August 9, 2017*

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Chad Edward Noziska 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, and we affirm.

Noziska contends that he is entitled to a sentence reduction under

* 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).

Amendment 782 to the Sentencing Guidelines. We review de novo whether a district court had authority to modify a sentence under section 3582(c)(2). *See United States v. Leniear*, 574 F.3d 668, 672 (9th Cir. 2009). The record makes clear that the district court imposed Noziska’s sentence for reasons unrelated to the guideline range lowered by Amendment 782. Noziska is, therefore, ineligible for a sentence reduction because his sentence was not “based on a sentencing range that has subsequently been lowered by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2); *United States v. Rodriguez-Soriano*, 855 F.3d 1040, 1045-46 (9th Cir. 2017).

AFFIRMED.