

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 29 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-30053

Plaintiff-Appellee,

D.C. No. 4:07-cr-00003-SEH

v.

MEMORANDUM*

STEVEN TYRONE RICHARD,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Steven Tyrone Richard 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.

Richard 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 Richard’s sentence, and later reduced Richard’s sentence under Federal Rule of Criminal Procedure 35(b), for reasons unrelated to the guideline range lowered by Amendment 782. Because Richard’s sentence was not “based on a sentencing range that has subsequently been lowered by the Sentencing Commission,” he is ineligible for a sentence reduction. *See* 18 U.S.C. § 3582(c)(2); *United States v. Rodriguez-Soriano*, 855 F.3d 1040, 1045-46 (9th Cir. 2017). Accordingly, contrary to Richard’s contention, the district court had no cause to consider his argument that a reduction was warranted under the 18 U.S.C. § 3553(a) sentencing factors. *See Dillon v. United States*, 560 U.S. 817, 826-27 (2010).

Richard’s motion for remand or summary reversal is denied.

AFFIRMED.