

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 16 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-30095

Plaintiff-Appellee,

D.C. No. 1:99-cr-00048-SPW

v.

MEMORANDUM*

JAIME MORENO,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Jaime Moreno appeals pro se from the district court's denial of his 18 U.S.C. § 3582(c)(2) motion for reduction of sentence. We have jurisdiction under 28 U.S.C. § 1291. Reviewing de novo, *see United States v. Leniear*, 574 F.3d 668, 672 (9th Cir. 2009), 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).

In the district court, Moreno moved for a sentence reduction in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). The district court correctly concluded that this claim does not provide a basis for relief under section 3582(c)(2). *See Dillon v. United States*, 560 U.S. 817, 824-26 (2010) (section 3582(c)(2) does not authorize a resentencing proceeding, but rather authorizes the district court to modify a sentence in the “limited circumstance[]” where a defendant who was sentenced based on a sentencing range that was subsequently lowered).

On appeal, Moreno raises several new arguments, including claims challenging his conviction under 18 U.S.C. § 924(c), the effectiveness of his trial counsel, and the length of his sentence. These claims are not properly before us, *see United States v. Antonakeas*, 255 F.3d 714, 721 (9th Cir. 2001), and are outside the scope of a section 3582(c)(2) motion, *see Dillon*, 560 U.S. at 831.

To the extent Moreno seeks to recall the mandate in one of his previous appeals, that request may not be raised in this appeal.

AFFIRMED.