NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 13-10125
Plaintiff - Appellee,	D.C. No. 2:03-cr-00549-WBS-1
v.	
FRANCISCO MEDINA CASTENEDA,	MEMORANDUM[*]
Defendant - Appellant.	

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, Senior District Judge, Presiding

Submitted December 18, 2013[**]

Before: HUG, FARRIS, and LEAVY, Circuit Judges.

Francisco Medina Casteneda appeals from the district court's order denying

his 18 U.S.C. § 3582(c)(2) motion for reduction of sentence. 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 9th Cir. R. 36-3.

[**]   The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

Casteneda's sentence is within the modified Sentencing Guidelines range.

However, he contends that he argued before the district court that the disparity

between his sentence and the sentences of his co-conspirators warranted a sentence

reduction under 18 U.S.C. § 3553(a)(6) and that the district court erred by failing

to address that argument. Because Casteneda did not object below, we review for

plain error. *See United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008).

Casteneda has not shown plain error affecting his substantial rights. *See id.; see*

also United States v. Carty, 520 F.3d 984, 992-93, 995-96 (9th Cir. 2008) (en

banc). Casteneda's reliance on *United States v. Trujillo*, 713 F.3d 1003, 1008-10

n.5 (9th Cir. 2013), is misplaced because, unlike Casteneda, Trujillo raised

extensive non-frivolous arguments tethered to specific § 3553(a) factors and

received a sentence above the modified Guidelines range. In addition, Casteneda

has not shown a reasonable probability that the sentence would have been different

absent the alleged error. *See Dallman*, 533 F.3d at 761-62.

AFFIRMED.