

APR 29 2016

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROMUALD ANDREYEVICH  
VOYTSEKHOVSKIY,

Defendant - Appellant.

No. 15-30155

D.C. No. 2:13-cr-00008-SEH

MEMORANDUM\*

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

Submitted April 26, 2016\*\*

Before: McKEOWN, WARDLAW, and PAEZ, Circuit Judges.

Romuald Andreyevich Voytsekhovskiy appeals 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. We review de novo whether a district

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\* 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).

court has authority to reduce a sentence under section 3582(c)(2), *see United States v. Leniear*, 574 F.3d 668, 672 (9th Cir. 2009), and we affirm.

Voytsekhovskiy contends that the district court had authority to reduce his sentence under Amendment 782 even though his Guidelines range was not lowered by the amendment. We disagree. Voytsekhovskiy's equitable arguments notwithstanding, a district court may only lower a sentence under section 3582(c)(2) when the defendant's applicable Guidelines range has been lowered. *See* 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(a)(2)(B), cmt. n.1(A); *Leniear*, 574 F.3d at 673-74. Thus, the district court properly denied Voytsekhovskiy's motion.

**AFFIRMED.**