

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 18 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10009

Plaintiff-Appellee,

D.C. No. 3:98-cr-00133-CRB

v.

MEMORANDUM*

SOCORRO LOYA-CHAVEZ, a.k.a. Carlos
Guerro,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Socorro Loya-Chavez appeals pro se 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.

Loya-Chavez 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 has authority to modify a sentence under section 3582(c)(2). *See United States v. Wesson*, 583 F.3d 728, 730 (9th Cir. 2009). Loya-Chavez was sentenced as a career offender under U.S.S.G. § 4B1.1. Thus, his sentence was not “based on” a Guideline that was lowered by Amendment 782, and he is ineligible for a reduction. *See* 18 U.S.C. § 3582(c)(2); *Wesson*, 583 F.3d at 731. The Supreme Court cases Loya-Chavez cites do not support a contrary result. Moreover, Loya-Chavez is incorrect that the district court could have reduced his sentence to account for alleged sentencing disparities and his post-sentencing rehabilitation. *See Dillon v. United States*, 560 U.S. 817, 826-27 (2010) (district court can only consider whether a reduction is warranted under 18 U.S.C. § 3553(a) if it first determines that a reduction is authorized).

AFFIRMED.