

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 18 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-10526

Plaintiff-Appellee,

D.C. No. 4:12-cr-01677-CKJ

v.

ROBERT ST. AUBYN SAUNDERS, a.k.a.
Milton Crooms, a.k.a. Robert S. Saunders,
a.k.a. Robert St. Aubya Saunders, a.k.a.
Michael Williams,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted January 15, 2019**

Before: TROTT, TALLMAN, and CALLAHAN, Circuit Judges.

Robert St. Aubyn Saunders 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.

* 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).

The district court denied Saunders's motion for a sentence reduction, finding that Saunders was ineligible for a sentence reduction under section 3582(c)(2) and that, even if he were eligible, a sentence reduction was not warranted under the 18 U.S.C. § 3553(a) sentencing factors. We need not determine whether Saunders is eligible for a reduction because, even assuming he is eligible, the district court did not abuse its discretion in concluding that a reduction was not warranted in light of the totality of the circumstances, including the nature and circumstances of Saunders's offense, his extensive criminal history and the continuing risk he poses to the public, and the significant benefits he obtained from the plea agreement. *See Dillon v. United States*, 560 U.S. 817, 826-27 (2010) (sentence reduction under section 3582(c)(2) is only available if defendant is eligible for a reduction and district court determines a reduction is warranted under the section 3553(a) sentencing factors and the circumstances of the case); *United States v. Chaney*, 581 F.3d 1123, 1125 (9th Cir. 2009) (discretionary denials of sentence reduction motions are reviewed for abuse of discretion).

We grant Saunders's motion requesting leave to file an untimely reply brief. The Clerk shall file the brief received on December 24, 2018 (Docket Entry No. 25).

AFFIRMED.