

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 4 2026

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VIVIAN A. EARLE, AKA Vivian A. Earl,

Defendant - Appellant.

No. 25-6230

D.C. No.

2:19-cr-01121-GMS-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona

G. Murray Snow, District Judge, Presiding

Submitted July 29, 2026**

Before: McKEOWN, TALLMAN, and MENDOZA, JR., Circuit Judges.

Vivian A. Earle appeals pro se from the district court's order denying his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), denying his motion to appoint counsel, and granting the unsealing of certain documents. 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).

Earle sought a sentence reduction under U.S.S.G. § 4C1.1, which provides a two-level reduction for zero-point offenders. As the district court concluded, Earle is ineligible for a reduction because he had one criminal history point, and because he “use[d] violence or credible threats of violence in connection with the offense.” *See* U.S.S.G. §§ 4C1.1(a)(1), (3). Earle’s contentions that errors at his original sentencing support a reduction go beyond the scope of a § 3582(c)(2) motion. *See Dillon v. United States*, 560 U.S. 817, 831 (2010).

Earle also has not shown any error in the district court’s decision to deny his motion to appoint counsel, which this court had previously denied.

To the extent Earle asserts that the district court violated his due process rights by failing to unseal additional documents, Earle has not identified any error in the district court’s decision.

Earle’s pending motions are denied.

AFFIRMED.