

DEC 31 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>HEATHER SCHUTZ,</p> <p>Defendant - Appellant.</p>
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No. 12-30073

D.C. No. 1:06-cr-00034-CCL-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Charles C. Lovell, District Judge, Presiding

Submitted December 19, 2012**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Heather Schutz appeals from the district court’s order denying her 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 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).

Schutz contends that the district court erred by failing to consider whether she was entitled to a sentence reduction under Amendment 750, which amended the drug quantity table in U.S.S.G. § 2D1.1 for offenses involving crack cocaine. Contrary to Schutz's contention, the district court considered her motion. It declined to grant the requested reduction, however, in light of Schutz's prior sentence reductions, which resulted in her sentence being below the amended Guideline range and the mandatory minimum. The court did not abuse its discretion by denying the motion. *See United States v. Austin*, 676 F.3d 924, 926 (9th Cir. 2012).

AFFIRMED.