

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 29 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KHANG KIEN TRAN, a.k.a. Charlie, a.k.a.
Thanh, a.k.a. Tran,

Defendant - Appellant.

No. 14-10572

D.C. No. 1:95-cr-00151-DAE

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
David A. Ezra, District Judge, Presiding

Submitted April 26, 2016**

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

Khang Kien Tran 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. We review de novo whether a district court

* 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).

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

Tran contends that he is entitled to a sentence reduction under Amendment 782 to the Sentencing Guidelines. The district court properly concluded that Tran is ineligible for a sentence reduction because Amendment 782 has not lowered his applicable sentencing range. *See* 18 U.S.C. § 3582(c)(2); *Leniear*, 574 F.3d at 673-74. To the extent that Tran seeks to challenge the sentencing court's original calculation of his Guidelines range, this claim is not cognizable in a section 3582 proceeding. *See Dillon v. United States*, 560 U.S. 817, 826 (2010) (section 3582(c) does not permit a "plenary resentencing proceeding").

AFFIRMED.