

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 1 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

PENG XIANG LI, a.k.a. Sgt. Stephen,

Defendant-Appellant.

No. 15-10503

D.C. No. 4:08-cr-00461-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, Chief Judge, Presiding

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Peng Xiang Li 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.

Li contends that he is entitled to a sentence reduction under Amendment 782

* 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).

to the Sentencing Guidelines. We review de novo whether a district court had authority to modify a sentence under section 3582(c)(2). *See United States v. Paulk*, 569 F.3d 1094, 1095 (9th Cir. 2009). Li is not entitled to a sentence reduction because his sentence was not “based on a sentencing range that has subsequently been lowered by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2). Rather, his sentence was based on the statutory mandatory minimum under 21 U.S.C. § 841(b)(1)(A)(vii). Accordingly, the district court properly denied relief. *See* U.S.S.G. § 1B1.10 cmt. n.1(A); *Paulk*, 569 F.3d at 1095.

AFFIRMED.