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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. ALBERTO BARRAGAN, a.k.a. Luis Alberto Barragan, Defendant-Appellant.	No. 15-30058 D.C. No. 2:08-cr-00044-JLQ MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Justin L. Quackenbush, District Judge, Presiding

Submitted December 14, 2016**

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

Alberto Barragan appeals 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.

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* 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).

Barragan contends that he is entitled to a sentence reduction under Amendment 782. The district court determined that Barragan was not eligible for a sentence reduction because his sentence was based on the parties' Federal Rule of Criminal Procedure 11(c)(1)(C) plea agreement, rather than a Guidelines range that had been lowered by Amendment 782. It also concluded, however, that even if Barragan were eligible for a sentence reduction, he was not entitled to one under the 18 U.S.C. § 3553(a) sentencing factors. Assuming without deciding that our recent decision in *United States v. Davis*, 825 F.3d 1014 (9th Cir. 2016) (en banc), renders the district court's eligibility determination erroneous, we nonetheless affirm. The district court did not abuse its discretion when, after evaluating Barragan's post-sentencing conduct and his sentencing exposure at the time of his conviction, it concluded that a 150-month sentence remained appropriate. *See* U.S.S.G. § 1B1.10 cmt. n. 1(B); *United States v. Lightfoot*, 626 F.3d 1092, 1095-96 (9th Cir. 2010).

AFFIRMED.