

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 10 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-50239

Plaintiff-Appellee,

D.C. No. 5:10-cr-00058-VAP-1

v.

MEMORANDUM*

CHRISTOPHER HENRY LISTER, Sr.,

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

Christopher Henry Lister, Sr., 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.

Lister argues that he is entitled to a sentence reduction under Amendment

* 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).

782. We review the denial of sentence reduction under section 3582(c)(2) for abuse of discretion. *See United States v. Dunn*, 728 F.3d 1151, 1155 (9th Cir. 2013). As the government has consistently conceded, Amendment 782 had the effect of lowering Lister’s applicable Guidelines range. But the district court did not abuse its discretion by denying the motion. The district court neither “applied the wrong law [n]or relied on clearly erroneous findings of material fact,” and it “properly cited the factors under [18 U.S.C.] § 3553(a), and considered those applicable to [Lister’s] case.” *Dunn*, 728 F.3d at 1159. The district court reasonably concluded that Lister’s arguments regarding his rehabilitation did not justify a sentence reduction in light of the serious nature of the offense and Lister’s criminal history. *See* 18 U.S.C. § 3553(a); *Dunn*, 728 F.3d at 1159.

The motion to extend time to file a reply brief is denied as moot because Lister timely filed his reply brief, which has been considered by the court. The motion to file a sealed supplemental reply brief and the motion to accept late discovery are granted, but the request for ex parte filing is denied. The Clerk will file under seal the supplemental reply brief at Docket Entry Nos. 16 and 17.

AFFIRMED.