

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1028

United States of America,	*	
	*	
Appellee,	*	Appeal from the United States
	*	District Court for the Northern
v.	*	District of Iowa.
	*	
Cesar Israel Sierra Gutierrez,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: October 4, 2002

Filed: October 9, 2002

Before McMILLIAN, FAGG, and BOWMAN, Circuit Judges.

PER CURIAM.

In 1999, Cesar Israel Sierra Gutierrez pleaded guilty to reentering the United States illegally as a deported alien, in violation of 18 U.S.C. § 1326. Applying U.S.S.G. § 2L1.2(b)(1)(A) (Nov. 1, 1998) (sixteen-level increase for defendant previously convicted for aggravated felony), the district court sentenced Gutierrez to seventy-eight months imprisonment and two years supervised release.

Effective November 1, 2001, the Sentencing Commission promulgated Guidelines Amendment 632, which revamped section 2L1.2(b)'s aggravated-felony enhancement to provide for an increase of eight to sixteen levels according to the

seriousness of the earlier aggravated felony. See U.S.S.G. App. C at 224-25; U.S.S.G. § 2L1.2(b) (Nov. 1, 2001). In response, Gutierrez filed a pro se motion to modify his sentence under 18 U.S.C. § 3582(c)(2), arguing Amendment 632 had lowered the authorized term of imprisonment. The district court denied the motion. Gutierrez appeals, and we affirm.

Under section 3582(c)(2), a court may reduce a previously imposed sentence when the Sentencing Commission has lowered the applicable sentencing range "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." The relevant policy statement, section 1B1.10(a), states that a reduction under section 3582(c)(2) is not consistent with the policy statement if "none of the amendments listed in subsection (c)" applies. Amendment 632 is not listed in subsection (c), thus Gutierrez is not entitled to relief. See Delgado v. United States, 162 F.3d 981, 983 (8th Cir. 1998) (amendment not listed in § 1B1.10(c) may not be applied to reduce sentence).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.