

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-11674
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPTEMBER 16, 2009 THOMAS K. KAHN CLERK

D. C. Docket No. 95-00605-CR-PAS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID VELEZ,
a.k.a. Robert Rodriguez,
a.k.a. Alex Rosa,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(September 16, 2009)

Before BLACK, CARNES and BARKETT, Circuit Judges.

PER CURIAM:

David Velez appeals his amended 235-month sentence, which the district court imposed after reducing his sentence under 18 U.S.C. § 3582(c)(2) and Amendment 706 to the sentencing guidelines. He contends that he should have been eligible for a variance below the low end of his amended guidelines range. That argument is foreclosed by our holding in United States v. Melvin, 556 F.3d 1190 (11th Cir. 2009), cert. denied, 129 S. Ct. 2382 (2009).

Velez argues that Melvin was wrongly decided and violates his Sixth Amendment rights and the remedial purpose of United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005). Regardless, we are bound by our prior panel precedent rule to follow Melvin until it is overruled by this Court sitting en banc or the Supreme Court. See United States v. Jacqueline Brown, 342 F.3d 1245, 1246 (11th Cir.2003). The district court properly determined that under Melvin it was not authorized to sentence Velez below the low end of his amended guideline range.

AFFIRMED.