

4 UNITED STATES COURT OF APPEALS
5 FOR THE SECOND CIRCUIT
6

7 **SUMMARY ORDER**
8

9 RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER
10 FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF
11 APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY
12 ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX
13 OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY
14 ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.
15

16 At a stated term of the United States Court of Appeals for
17 the Second Circuit, held at the Thurgood Marshall United States
18 Courthouse, 40 Foley Square, in the City of New York, on the
19 19th day of May, two thousand sixteen.
20

21 PRESENT: DENNIS JACOBS,
22 BARRINGTON D. PARKER,
23 REENA RAGGI,
24 Circuit Judges.
25

26 - - - - -X
27 UNITED STATES OF AMERICA,
28 Appellee,
29

30 -v.- 15-2394

31
32 CHEYNE MAZZA,
33 Defendant-Appellant.
34

35 - - - - -X
36
37 FOR APPELLANT: JAMES P. MAGUIRE, Assistant
38 Federal Public Defender, for
39 Terence S. Ward, Federal Defender,
40 New Haven, CT.
41

1 **FOR APPELLEE:**

MICHAEL E. RUNOWICZ (Marc H. Silverman, on the brief),
Assistant United States Attorney,
for Deirdre M. Daly, United States
Attorney for the District of
Connecticut, New Haven, CT.

8 Appeal from a judgment of the United States District Court
9 for the District of Connecticut (Bryant, J.).
10

11 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND**
12 **DECREED** that the judgment of the district court be **VACATED** and
13 **REMANDED**.
14

15 Cheyne Mazza appeals from the judgment of the United States
16 District Court for the District of Connecticut (Bryant, J.)
17 denying Mazza's motion for a reduced sentence pursuant to 18
18 U.S.C. § 3582(c)(2). We assume the parties' familiarity with
19 the underlying facts, the procedural history, and the issues
20 presented for review.

21 Mazza was convicted of conspiracy to manufacture and
22 possess with intent to distribute over 1000 marijuana plants.
23 At sentencing, the district court calculated Mazza's guidelines
24 range to be 135-168 months' imprisonment. The district court
25 principally sentenced Mazza to 168 months' imprisonment, and
26 we affirmed. United States v. Mazza, 503 F. App'x 9, 10 (2d
27 Cir. Nov. 15, 2012) (summary order).

28 Once Amendment 782 to the United States Sentencing
29 Guidelines was made retroactive, the United States Probation
30 Office filed a presentence report addendum (the "Addendum")
31 stating that Mazza qualified for a sentence reduction with an
32 amended guideline range of 108-135 months' imprisonment. The
33 Addendum also described six disciplinary infractions that Mazza
34 had committed while serving his federal prison sentence:
35 possessing a hazardous tool, being in an unauthorized area,
36 assaulting without injury, and phone abuse (on three
37 occasions).

38 After the Addendum was filed, Mazza moved for a sentence
39 reduction under 18 U.S.C. § 3582(c)(2). He did not dispute the

1 six disciplinary infractions outlined in the Addendum, but
2 argued that the district court should nonetheless exercise its
3 discretion to reduce his sentence from 168 months to 108 months.
4 The government acknowledged Mazza's eligibility, but opposed
5 the motion principally on the ground of Mazza's post-conviction
6 conduct in prison. The district court denied the motion based
7 on an application of the 18 U.S.C. § 3553(a) factors and
8 observed that "[t]he defendant's behavior in prison
9 demonstrates a continued need to protect the public and a lack
10 of respect for the law." S.A. 152. Mazza appealed.

11 **1.** When considering a motion for a sentence reduction
12 under 18 U.S.C. § 3582(c)(2), a district court must first
13 determine whether the defendant is eligible for a reduction.
14 United States v. Christie, 736 F.3d 191, 194 (2d Cir. 2013).
15 If so, the district court may exercise discretion to reduce the
16 original sentence, but only after considering the applicable
17 18 U.S.C. § 3553(a) factors, id., and "the post-sentencing
18 behavior of the defendant and any public safety concerns a
19 reduction in sentence would raise," United States v. Rivera,
20 662 F.3d 166, 170 (2d Cir. 2011). A § 3582(c)(2) motion does
21 not entail a plenary resentencing; § 3582(c)(2) only authorizes
22 a limited modification of the original sentence. Dillon v.
23 United States, 560 U.S. 817, 825-27 (2010). Once a district
24 court has made its decision on a § 3582(c)(2) motion, it must
25 include "at least some minimal statement of reasons for [its]
26 action" so that we can provide meaningful appellate review.
27 Christie, 736 F.3d at 197. We review for abuse of discretion
28 a district court's decision on a motion for a sentence reduction
29 pursuant to § 3582(c)(2). United States v. Borden, 564 F.3d
30 100, 104 (2d Cir. 2009).

31 Because Mazza was eligible for a reduced sentence, the only
32 issue is whether the district court abused its discretion in
33 denying the § 3582(c)(2) motion and maintaining the sentence
34 of 168 months' imprisonment. True, a defendant's
35 post-sentencing behavior can be a proper and sufficient basis
36 on which to deny a sentence reduction. See, e.g., United States
37 v. Wilson, 716 F.3d 50, 53 (2d Cir. 2013) (per curiam); United
38 States v. Figueroa, 714 F.3d 757, 761 (2d Cir. 2013) (per
39 curiam). Here, however, the record is not sufficiently
40 developed for us to engage in a meaningful appellate review of

