

JAN 23 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH BRYANT BAUGUS, aka J.B.
Baugus, et al.,

Defendant - Appellant.

No. 07-30046

D.C. No. CR-02-00133-SEH

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH BRYANT BAUGUS, aka J.B.
Baugus, et al.,

Defendant - Appellant.

No. 07-30353

D.C. No. CR-02-00133-1-SEH

Appeal from the United States District Court
for the District of Montana

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Sam E. Haddon, District Judge, Presiding

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

In these consolidated appeals, Joseph Bryant Baugus appeals pro se from the district court's order denying as untimely his motion for appointment of counsel and a hearing, and the district court's subsequent order denying his motions to reconsider and to vacate its prior order. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Baugus contends that the district court erred by denying these motions. Although we agree that Baugus's initial motion was timely, *see* 28 U.S.C. § 3202(d), we conclude that any error was harmless in light of the district court's subsequent correct ruling that Baugus was not entitled to appointment of counsel, *see United States v. 30.64 Acres of Land*, 795 F.2d 796, 801 (9th Cir. 1986), or to a hearing, *see* 28 U.S.C. § 3202(d).

We deny Baugus's request to reassign the case to a different district court

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judge. *See United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997).

Baugus's remaining contentions lack merit.

AFFIRMED.