

FEB 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>JAMES H. BOHOL, AKA Special K,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 08-10309

D.C. No. 1:02-cr-00523-HG-3

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

James H. Bohol appeals from the district court's order finding probable cause to detain him pending a hearing regarding revocation of supervised release.

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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

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

Bohol contends that the district court erred in determining that he is a flight risk. We conclude that the district court did not clearly err in finding that Bohol had not met his burden of establishing by clear and convincing evidence that he is not a flight risk. *See United States v. Loya*, 23 F.3d 1529, 1530 (9th Cir. 1994).

Bohol's contention that his detention violates the Eighth Amendment lacks merit. *See United States v. Winsor*, 785 F.2d 755, 756 (9th Cir. 1986); *see also Lee v. City of Los Angeles*, 250 F.3d 668, 686 (9th Cir. 2001).

We decline to consider Bohol's remaining arguments, which he raises for the first time in his reply brief. *See Eberle v. Anaheim*, 901 F.2d 814, 818 (9th Cir. 1990).

AFFIRMED.