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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AUDELIO ARZOLA-AMAYA,

Petitioner - Appellant,

v.

U.S. BUREAU OF PRISONS,

Respondent - Appellee.

No. 08-16035

D.C. No. 2:07-cv-01305-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Audelio Arzola-Amaya appeals pro se from the district court's judgment dismissing his petition for writ of mandamus under 28 U.S.C. § 1361. We have jurisdiction under 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Arzola-Amaya seeks to compel the Bureau of Prisons (“BOP”) to provide him with good time credits he alleges he is entitled to by law because the BOP has designated his life sentence at 45 years. The district court did not abuse its discretion by dismissing the petition because Arzola-Amaya is bound by this court’s earlier determination in affirming the denial of his 28 U.S.C. § 2241 petition that he is not entitled to good time credits. *See Wilson v. Belleque*, 554 F.3d 816, 830 (9th Cir. 2009). In addition, the record does not support his claim that the BOP converted his life sentence to a 45-year fixed term. Thus, Arzola-Amaya cannot satisfy the first element of mandamus relief requiring a “clear and certain” claim as he does not have “legal entitlement to the relief sought.” *Lowry v. Barnhart*, 329 F.3d 1019, 1021 (9th Cir. 2003) (internal quotations omitted).

AFFIRMED.