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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HARVEY RAY JOHNSON,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JOSEPH NORWOOD, Warden; UNITED STATES PAROLE COMMISSION,</p> <p>Respondents - Appellees.</p>

No. 08-56330

D.C. No. 2:08-cv-00824-MMM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Federal prisoner Harvey Ray Johnson appeals pro se from the district court's judgment denying his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, 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).

Johnson contends that the United States Parole Commission was bound by the hearing examiner's recommendation to re-release him on parole. The hearing examiner, however, only has the authority to make recommendations to the Commission. *See* 28 C.F.R. § 2.23; *Solheim v. Armstrong*, 859 F.2d 755, 758 (9th Cir. 1988). The Commission's decision to continue Johnson to his expiration date was not "arbitrary, irrational, unreasonable, irrelevant, or capricious." *Walker v. United States*, 816 F.2d 1313, 1316 (9th Cir. 1987).

Johnson also contends that the Commission improperly extended his expiration date when it did not give him credit for time spent on parole and in state custody. There is no rule "that accords a prisoner credit against a federal sentence for time served in a state prison on a state charge." *Raines v. U.S. Parole Comm'n*, 829 F.2d 840, 843 (9th Cir. 1987) (per curiam). Moreover, the Commission did not abuse its discretion by forfeiting the time Johnson spent under parole supervision. *See Meador v. Knowles*, 990 F.2d 503, 506-07 (9th Cir. 1993).

AFFIRMED.