

SEP 03 2010

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>EUGENE DARREL RUTLEDGE,</p> <p style="text-align: center;">Defendant - Appellant.</p> |
|--|

No. 08-16810 & 08-16812

D.C. Nos. 4:99-cr-40033-CAW
4:03-cr-40116-CAW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Claudia A. Wilken, District Judge, Presiding

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

In these consolidated appeals, former federal prisoner Eugene Darrell Rutledge appeals pro se from the district court’s order denying his petition for a writ of error coram nobis. 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).

Rutledge seeks to vacate two prior federal convictions, claiming that his guilty pleas were constitutionally deficient and that his trial counsel was ineffective. Because Rutledge has not alleged valid reasons for failing to attack the convictions earlier, he is not entitled to a writ of coram nobis. *See United States v. Kwan*, 407 F.3d 1005, 1011 (9th Cir. 2005) *abrogated on other grounds by Padilla v. Kentucky*, 130 S. Ct 1473 (2010); *see also Maghe v. United States*, 710 F.2d 503, 503-04 (9th Cir. 1983).

AFFIRMED.