

JAN 24 2011

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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NOT FOR PUBLICATION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>DONNIE LEE JONES,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 09-50659

D.C. No. 8:97-cr-00093-AHS

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Alicemarie H. Stotler, District Judge, Presiding

Submitted January 10, 2011\*\*

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Donnie Lee Jones appeals from the revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

On appeal, Jones challenges the district court’s denial of his motion to expand the appointment of counsel under the Criminal Justice Act. Jones seeks to

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\* 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).

collaterally attack the validity of his underlying conviction in order to develop a defense to the revocation of his supervised release. Jones' collateral challenge to his conviction, which we have previously considered and rejected, is not cognizable in this appeal. "Irrespective of the merits of this claim, an appeal from a probation revocation is not the proper avenue for a collateral attack on the underlying conviction." *See United States v. Simmons*, 812 F.2d 561, 563 (9th Cir. 1987).

**AFFIRMED.**