

JAN 25 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARY W. MEDILL,

Defendant - Appellant.

No. 09-56701

D.C. No. 2:03-cr-00227-DDP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted January 10, 2011**

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

Former federal prisoner Cary W. Medill 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).

Medill contends that the district court erred by dismissing his coram nobis petition as untimely. Because Medill has not alleged valid reasons for failing to attack the conviction earlier, he is not entitled to a writ of coram nobis, and the district court did not err. *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) (per curiam) (entitlement to writ of coram nobis requires a showing of “sound reasons” for failure to seek relief earlier).

AFFIRMED.