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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERT NELSON HOWELL,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>UNITED STATES PENITENTIARY ATWATER; RIOS, Warden,</p> <p>Respondents - Appellees.</p>
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No. 09-17131

D.C. No. 1:09-cv-00309 DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Dennis L. Beck, Magistrate Judge, Presiding**

Submitted March 8, 2011***

Before: FARRIS, LEAVY, and BYBEE, Circuit Judges.

Federal prisoner Robert Nelson Howell appeals pro se from the district court's order denying his 28 U.S.C. § 2241 habeas petition. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The parties consented to proceeding before a magistrate judge.

*** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 1291, and we affirm.

Howell contends that his due process rights were violated because the Disciplinary Hearing Officer (DHO) who imposed the sanctions at his disciplinary hearing was not qualified to do so.

Even assuming this claim is properly before this court, it fails on the merits. Howell has failed to support his claim or otherwise demonstrate that the DHO's handling of the disciplinary hearing violated due process. *See Superintendent v. Hill*, 472 U.S. 445, 454-455 (1985).

AFFIRMED.