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JUN 6 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ERNESTO GARCIA, Petitioner - Appellant, v. LINDA SANDERS, Warden, Respondent - Appellee.	No. 09-56682 D.C. No. 2:09-cv-04188-ODW-RNB MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright, II, District Judge, Presiding

Submitted May 24, 2011 **

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Federal prisoner Jose Ernesto Garcia appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition without prejudice. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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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).

Garcia contends that the Federal Bureau of Prisons unlawfully refused his request for a transfer to a Residential Re-entry Center in contravention of 18 U.S.C. § 3621(b).

A federal prisoner is required to exhaust his administrative remedies before filing a habeas petition. *See Martinez v. Roberts*, 804 F.2d 570, 571 (9th Cir. 1986) (per curiam). Garcia has not exhausted his administrative remedies, nor has he shown that exhaustion of his administrative remedies would be futile. *See Terrell v. Brewer*, 935 F.2d 1015, 1019 (9th Cir. 1991). Thus, the district court properly dismissed his petition without prejudice. *See id.*

AFFIRMED.