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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NOT FOR PUBLICATION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>v.</p> <p>LAURENCE PALMER, a.k.a. Lawrence Palmer,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 10-36162

D.C. Nos. 1:08-cv-00072-JDS
1:05-cr-00130-JDS

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Jack D. Shanstrom, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Laurence Palmer appeals pro se from the district court’s order denying his motion to modify his supervised release term. 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).

Palmer alleges he suffered several constitutional violations and that the district court improperly relied on a prior conviction when setting his supervised release term. Palmer's challenges to the legality of his supervised release term are not proper grounds for modification under 18 U.S.C. § 3583(e). *See United States v. Gross*, 307 F.3d 1043, 1044 (9th Cir. 2002).

Moreover, Palmer fails to show that he is entitled to relief under section 3583(e) because he is still in custody and does not argue or allege any change of circumstances. *See* 18 U.S.C. § 3583(e); *United States v. Miller*, 205 F.3d 1098, 1101 (9th Cir. 2000).

To the extent Palmer's briefing of alleged constitutional violations seeks to argue the merits of his 28 U.S.C. § 2255 motion, we construe those arguments as a motion for a certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (*per curiam*).

AFFIRMED.