

AUG 07 2012

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NOT FOR PUBLICATION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.

MIKEL BOLANDER,

Defendant - Appellant.

No. 11-50001

D.C. No. 3:01-cr-02864-L-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, Senior District Judge, Presiding

Argued and Submitted March 14, 2012
Berkeley, California

Before: NOONAN, McKEOWN, and M. SMITH, Circuit Judges.

Mikel Bolander (“Bolander”) appeals the district court’s order denying his motion to terminate the three-year term of supervised release following his prison term. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we reverse. Because

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

the parties are familiar with the factual and procedural history of this case, we repeat only those facts necessary to resolve the issues raised on appeal.

Bolander was continuously detained pursuant to an Adam Walsh Act certification under 18 U.S.C. § 4248(a) from February 7, 2007 until the completion of his civil commitment proceedings on January 19, 2012. Bolander argues that his term of supervised release began on February 7, 2007, when the incarceration portion of his criminal sentence expired and he was removed from general prison population and relocated to a segregated unit of civil detainees. We agree.

This case is controlled by our decision in *United States v. Turner*, No. 11-10038, 2012 WL — (9th Cir. — , 2012), filed simultaneously with this memorandum. Because detention pursuant to the government’s filing of a “Certification of a Sexually Dangerous Person” under § 4248(a) does not constitute “imprisonment in connection with a conviction” within the meaning of 18 U.S.C. 3624(e), it does not operate to toll a term of supervised release.

REVERSED AND REMANDED.

FILED

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United States v. Bolander, No. 11-50001

M. SMITH, Circuit Judge, concurring:

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I acknowledge that this case is controlled by the opinion in *United States v. Turner*, No. 11-10038, filed simultaneously with this memorandum disposition. Because *Turner* is now binding authority, I reluctantly concur. However, I respectfully disagree with this decision's conclusion and reasoning, for the reasons discussed in my dissent in *Turner*.