

OCT 16 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RONALD P. GREEN,

Petitioner - Appellant,

v.

J. E. THOMAS, Warden,

Respondent - Appellee.

No. 12-35013

D.C. No. 3:11-cv-01009-JE

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, District Judge, Presiding

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Federal prisoner Ronald P. Green appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition. 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).

Green contends that he is actually innocent of being a career offender under U.S.S.G. § 4B1.1 and therefore he should be allowed to proceed with his section 2241 petition under the “escape hatch” of 28 U.S.C. § 2255(e). This contention is foreclosed. *See Marrero v. Ives*, 682 F.3d 1190, 1195 (9th Cir. 2012) (“[T]he purely legal argument that a petitioner was wrongly classified as a career offender under the Sentencing Guidelines is not cognizable as a claim of actual innocence under the escape hatch.”). The district court correctly dismissed his petition. *See id.*

We construe Green’s additional arguments as a motion to expand the 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.