

DEC 31 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BARRY R. SCHOTZ,

Petitioner - Appellant,

v.

CRAIG APKER,

Respondent - Appellee.

No. 11-17096

D.C. No. 4:09-cv-00703-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted December 19, 2012**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Federal prisoner Barry R. Schotz appeals pro se from the district court's judgment denying 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).

Schotz contends that the Bureau of Prisons (“BOP”) unlawfully refused his request for a transfer to a Residential Re-entry Center (“RRC”). We review the denial of a section 2241 habeas petition de novo and findings of fact for clear error. *See Reynolds v. Thomas*, 603 F.3d 1144, 1148 (9th Cir. 2010). Schotz’s contention fails because the district court did not clearly err in concluding that Schotz did not make a direct request for placement in an RRC. In light of this conclusion, we do not reach Schotz’s argument that the BOP violated 18 U.S.C. § 3621(b) by failing to consider him for RRC placement before the end of his sentence.

Schotz’s motion to take judicial notice of several documents that he filed with this court is denied, and the government’s motion to strike these documents is granted.

AFFIRMED.