

JUN 24 2013

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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NOT FOR PUBLICATION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>JERALD PETER D’SOUZA, a.k.a. peter2033,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 12-10156

D.C. No. 2:09-cr-00131-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., Chief Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Jerald Peter D’Souza appeals pro se from the district court’s order denying his pro se motion to withdraw his guilty plea. 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).

D'Souza pleaded guilty to use of a facility of interstate commerce to induce a minor to engage in criminal sexual activity, in violation of 18 U.S.C. § 2422(b). D'Souza did not file a direct appeal, and over one year after he was sentenced, he filed the instant motion to withdraw his guilty plea under Federal Rule of Criminal Procedure 11, challenging the factual basis underlying his guilty plea. The district court denied the motion.

The district court properly denied D'Souza's motion because Rule 11 does not permit a defendant to withdraw his guilty plea after sentencing. *See* Fed. R. Crim. P. 11(e) ("After the court imposes sentence, the defendant may not withdraw a plea of guilty or nolo contendere, and the plea may be set aside only on direct appeal or collateral attack.").

AFFIRMED.