

OCT 22 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ABDULLAH ROBERT BROWN,
a.k.a. Robert Brown,

Petitioner - Appellant,

v.

RICHARD B. IVES, Warden; FEDERAL
BUREAU OF PRISONS,

Respondents - Appellees.

No. 11-56915

D.C. No. 2:11-cv-04066-JST

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine Staton Tucker, District Judge, Presiding

Submitted October 15, 2013**

Before: FISHER, GOULD, and BYBEE, Circuit Judges.

Federal prisoner Abdullah Robert Brown appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition for lack of

* 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).

jurisdiction. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Brown contends that the Bureau of Prisons' ("BOP") refusal to transfer him to a residential reentry center ("RRC") violates 18 U.S.C. § 3621(b), which governs the BOP's authority to place prisoners in an RRC when a prisoner has more than a year left to serve on his sentence. Insofar as Brown is challenging the BOP's individualized determination concerning his placement, the district court properly concluded that it lacked jurisdiction over the petition. *See Reeb v. Thomas*, 636 F.3d 1224, 1228 (9th Cir. 2011).

To the extent that Brown argues that the BOP violated federal law by "automatically" denying his request for RRC placement based on the time he had left to serve on his sentence, he has not shown that the BOP acted unlawfully. Contrary to his claim, the BOP does not have a policy of categorically excluding from RRC placement prisoners who, like Brown, have more than six months left to serve on their sentences. *See Sacora v. Thomas*, 628 F.3d 1059, 1064, 1068 (9th Cir. 2010). We decline to consider Brown's ex post facto challenge to the BOP's policy regarding RRC placement because it was not raised in his petition. *See Cacoperdo v. Demosthenes*, 37 F.3d 504, 507 (9th Cir. 1994).

Brown's motion for leave to amend filed on August 30, 2013, is denied.

AFFIRMED.