

APR 11 2014

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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NOT FOR PUBLICATION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 style="text-align: center;">v.</p> <p>BILLY CEPERO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 13-10124

D.C. No. 2:10-cr-00178-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted April 7, 2014**

Before: TASHIMA, GRABER, and IKUTA, Circuit Judges.

Billy Cepero appeals pro se from the district court’s order denying as moot his motion to compel his former counsel to return his case file. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court denied Cepero’s motion because it found that former

* 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).

counsel had already returned the entire case file to Cepero. We review this factual finding for clear error, *see United States v. Yi*, 704 F.3d 800, 805 (9th Cir. 2013), and the court's denial of Cepero's motion for abuse of discretion. *See United States v. Anthony*, 93 F.3d 614, 616 (9th Cir. 1996). Because the record supports the district court's finding, it did not abuse its discretion in denying Cepero's motion.

To the extent Cepero challenges the district court's order denying his motion for appointment of appellate counsel and the underlying January 30, 2012, judgment, we decline to consider these arguments because they are outside the scope of this appeal.

AFFIRMED.