

APR 15 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PHILLIP DALE SELFA,

Defendant - Appellant.

No. 13-10565

D.C. No. 2:12-cr-00324-JAM-1

ORDER*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted April 13, 2015**
San Francisco, California

Before: KOZINSKI and GRABER, Circuit Judges, and PONSOR,*** Senior
District Judge.

Defendant Phillip Selfa was indicted for bank robbery in violation of 18
U.S.C. § 2113(a). He appeals the district court's denial of his motion to dismiss

* 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. Fed. R. App. P. 34(a)(2).

*** The Honorable Michael A. Ponsor, Senior United States District
Judge for the District of Massachusetts, sitting by designation.

the indictment for vindictive prosecution. We lack jurisdiction to consider his appeal because the denial of a motion to dismiss an indictment for vindictive prosecution is neither a "final decision" of the district court under 28 U.S.C. § 1291 nor a collateral order subject to interlocutory review. See United States v. Hollywood Motor Car Co., 458 U.S. 263, 264–70 (1982) (per curiam) ("We do not reach the question of prosecutorial vindictiveness, for we hold that the Court of Appeals was without jurisdiction under 28 U.S.C. § 1291 to review the District Court's interlocutory order refusing to dismiss the indictment."); United States v. McKinley, 38 F.3d 428, 431 (9th Cir. 1994) (dismissing for lack of jurisdiction the interlocutory appeal of a denial of a motion to dismiss an indictment for prosecutorial vindictiveness).

DISMISSED.