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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL EARL YELLOW,

Defendant - Appellant.

No. 14-10140

D.C. No. 3:11-cr-08173-NVW-1

ORDER OF DISMISSAL\*

Appeal from the United States District Court  
for the District of Arizona  
Neil V. Wake, District Judge, Presiding

Argued August 10, 2015  
Submitted August 25, 2015  
San Francisco, California

Before: KOZINSKI and TALLMAN, Circuit Judges and PIERSOL,\*\* Senior  
District Judge.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The Honorable Lawrence L. Piersol, United States Senior District  
Judge for the District of South Dakota, sitting by designation.

The Government has renewed its motion to dismiss the pending appeal based on the fugitive disentitlement doctrine. *See* Dkt. No. 18. We rely on the publicly filed declarations. *See* Dkt. No. 47. Considering a warrant from over a year ago remains outstanding for Yellow’s arrest, his whereabouts are still presently unknown, the U.S. Marshals are actively looking for him and he has not been found in his usual and customary places, and his pattern of failing to report to his probation officer and follow the terms of his supervised release—the fugitive disentitlement doctrine applies here. *See Ortega-Rodriguez v. United States*, 507 U.S. 234, 239-42 (1993); *Williams v. Alameida*, 511 F.3d 973 (9th Cir. 2007).

Therefore, we **GRANT** the Government’s motion to dismiss, and we conditionally dismiss Yellow’s appeal pursuant to the fugitive disentitlement doctrine. If within 30 days Yellow submits himself to the U.S. Marshals, he may move to reinstate this appeal.

**IT IS SO ORDERED.**