

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 20 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANNY JOSEPH FABRICANT,

Defendant - Appellant.

No. 15-50251

D.C. No. 2:03-cr-01257-RSWL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Submitted June 14, 2016**

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Danny Joseph Fabricant appeals pro se from the district court's order denying his ex parte request for reimbursement of expenses pursuant to the Criminal Justice Act ("CJA"), 18 U.S.C. § 3006A. We affirm.

Fabricant contends that the district court erred by denying his request for

* 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).

reimbursement of the costs incurred in the preparation of his 28 U.S.C. § 2255 petition. The CJA authorizes reimbursement of costs for pro se petitioners seeking habeas relief only where the district court determines that the interests of justice “would have required the furnishing of [CJA] representation.” *See* Guide to Judiciary Policy, Volume 7, Part A, § 310.10.30. Here, the district court previously determined that Fabricant did not meet the standard for CJA representation in his section 2255 proceeding. *See* 18 U.S.C. § 3006A(a)(2)(B) (section 2255 petitioner may be appointed CJA representation where the court “determines that the interests of justice so require”); *see also Sanchez v. United States*, 50 F.3d 1448, 1456 (9th Cir. 1995) (“[T]here is no constitutional right to counsel at a collateral, post-conviction section 2255 proceeding.”). Therefore, the court correctly determined that nothing in the CJA allows for Fabricant to receive the requested reimbursement.

Fabricant’s May 2, 2016, request is denied.

AFFIRMED.