

FILED

OCT 24 2016

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NOT FOR PUBLICATION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.

NICHOLAS PATRICK MATHESON,

Defendant-Appellant.

No. 15-30300

D.C. No.

2:01-cr-00062-WFN-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
Wm. Fremming Nielsen, District Judge, Presiding

Submitted October 3, 2016**
Seattle, Washington

Before: W. FLETCHER, GOULD, and N.R. SMITH, Circuit Judges.

Nicholas Matheson appeals from the district court's order denying his motion to vacate for lack of jurisdiction his 2001 conviction for simple assault in violation of 18 U.S.C. § 113(a)(5). Because Matheson sought to challenge his

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conviction more than a dozen years after it had become final, the district court below did not have jurisdiction to entertain his motion. *See Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 154 (2009); *Chicot Cty. Drainage Dist. v. Baxter State Bank*, 308 U.S. 371, 376 (1940); *Stoll v. Gottlieb*, 305 U.S. 165, 172 (1938).

Accordingly, we vacate the district court's order and remand for dismissal for lack of jurisdiction.

VACATED and REMANDED.