

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 21 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-50536

Plaintiff-Appellee,

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

v.

MEMORANDUM\*

DANNY JOSEPH FABRICANT,

Defendant-Appellant.

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

Submitted February 14, 2017\*\*

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

Danny Joseph Fabricant appeals pro se from the district court's order declaring him a vexatious litigant and imposing a pre-filing restriction against him.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Fabricant contends that the district court lacked authority to impose the order

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\* 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).

and abused its discretion in doing so. We reject the argument. The district court imposed the order after Fabricant's direct appeal and 28 U.S.C. § 2255 habeas petition were concluded. In this circumstance, the court acted within its authority.

*See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) (“The All Writs Act, 28 U.S.C. § 1651(a), provides district courts with the inherent power to enter pre-filing orders against vexatious litigants.”); *see also* C.D. Cal. Local Civil Rule 83-8.2; C.D. Cal. Local Criminal Rule 57-1. Moreover, the district court did not abuse its discretion in imposing the order because it gave Fabricant notice and an opportunity to be heard, developed an adequate record for review, made substantive findings regarding Fabricant's frivolous litigation history, and tailored the restriction narrowly. *See Molski*, 500 F.3d at 1057-58 (discussing the four factors a district court must consider before imposing a pre-filing restriction on a vexatious litigant).

**AFFIRMED.**