

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 20 2017

FOR THE NINTH CIRCUIT

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

WILLIAM JOHN GREEN,

Petitioner-Appellant,

v.

JACK FOX,

Respondent-Appellee.

No. 15-56403

D.C. No. 2:15-cv-05420-DMG

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dolly M. Gee, District Judge, Presiding

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Former federal prisoner William John Green appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas corpus petition. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the dismissal of a section 2241 petition, *see Alaimalo v. United States*, 645 F.3d 1042, 1047 (9th Cir. 2011),

* 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 we affirm.

Green's section 2241 petition alleges various claims relating to his incarceration at multiple federal facilities. We need not determine whether the district court properly dismissed these claims because Green's release from custody has rendered them moot. *See Munoz v. Rowland*, 104 F.3d 1096, 1097-98 (9th Cir. 1997).

Green also challenges his conviction, alleging that he is actually innocent because he could not have formed the requisite mens rea. The record shows that Green cannot establish he "has not had an unobstructed procedural shot" at presenting this claim in a timely section 2255 motion, and, therefore, he cannot meet this "escape hatch" requirement. *See Harrison v. Ollison*, 519 F.3d 952, 961 (9th Cir. 2008) (internal quotations omitted). Accordingly, the district court properly dismissed this claim for lack of jurisdiction. *See id.* at 961. To the extent that Green challenges the criminal proceedings leading to his conviction and sentence, his conclusory allegations are insufficient to establish his actual innocence for purposes of the "escape hatch." *See Marrero v. Ives*, 682 F.3d 1190, 1193 (9th Cir. 2012).

Green's motion to file a supplemental brief is granted. The Clerk shall file the brief at Docket Entry No. 53.

AFFIRMED.