

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 10 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-30097

Plaintiff-Appellee,

D.C. No. 4:02-cr-00052-DLC-1

v.

MEMORANDUM*

VICTOR CHARLES FOURSTAR, Jr.,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Dana L. Christensen, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Victor Charles Fourstar, Jr., appeals pro se from the district court's order denying his motion for early termination of supervised release under 18 U.S.C. § 3583(e)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review for abuse of discretion the district court's denial of a motion for

* 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).

early termination of supervised release. *See United States v. Emmett*, 749 F.3d 817, 819 (9th Cir. 2014). Assuming without deciding that Fourstar met the one-year requirement for early termination, *see* 18 U.S.C. § 3583(e)(1), Fourstar failed to show that he was entitled to early termination of supervision. *See United States v. Weber*, 451 F.3d 552, 559 n.9 (9th Cir. 2006) (it is the defendant's burden to demonstrate that early termination is justified). At the time Fourstar filed his motion, he was still in custody for his third violation of supervised release, and the record shows that he had never succeeded in complying with the conditions of his supervision for more than a few months. Under these circumstances, the district court did not abuse its discretion by denying Fourstar's motion for early termination.

Fourstar's motion to reconsider the denial of his motion to consolidate and to consolidate additional appeals is **DENIED**.

We do not consider Fourstar's renewed motion for appointment of counsel because the court's previous order denying his motion for appointment of counsel stated that no motions for reconsideration, clarification, or modification of the denial would be entertained.

Fourstar's remaining arguments lack merit or are beyond the scope of this appeal.

AFFIRMED.