

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 25 2022

FOR THE NINTH CIRCUIT

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

CRISTOBAL CERVANTES,

No. 21-55266

Petitioner-Appellant,

D.C. No. 5:20-cv-01180-CJC-JC

v.

MEMORANDUM*

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted March 16, 2022**

Before: SILVERMAN, MILLER, and BUMATAY, Circuit Judges.

Federal prisoner Cristobal Cervantes appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas corpus petition and order denying reconsideration. We have jurisdiction under 28 U.S.C. § 1291. We review the dismissal of the § 2241 petition de novo, *see Alaimalo v. United States*,

* 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).

645 F.3d 1042, 1047 (9th Cir. 2011), and the denial of reconsideration for abuse of discretion, *see Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 954 (9th Cir. 2013).

We affirm.

Cervantes contends that the district court erred by concluding that he could not raise his claims challenging his conviction and sentence in a § 2241 petition. This court previously denied a certificate of appealability as to those claims. Insofar as Cervantes's opening brief seeks reconsideration of that decision, the request is denied. Furthermore, Cervantes waived any challenge to the district court's dismissal of his claims concerning the Bureau of Prisons' execution of his sentence and institutional COVID-19 safety protocols by failing to raise any arguments in support of those claims in his opening brief. *See Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988).

Cervantes's motion for appointment of counsel is denied.

AFFIRMED.