

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 17 2023

FOR THE NINTH CIRCUIT

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

PHILLIP CAMILLO-AMISANO,

No. 21-55877

Petitioner-Appellant,

D.C. No. 2:21-cv-00072-ODW-JDE

v.

MEMORANDUM*

FELICIA PONCE, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Submitted October 10, 2023**

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Appellee's motion to lift the stay in these proceedings is granted. The stay of this action, entered on November 22, 2022, is lifted.

Federal prisoner Phillip Camillo-Amisano appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. Reviewing de novo, *see Pinson v. Carvajal*, 69 F.4th 1059, 1063 (9th Cir. 2023), we affirm.

Camillo-Amisano contends that the district court erred by concluding that his claim regarding the conditions of his confinement due to the COVID-19 pandemic was not cognizable in a § 2241 habeas petition. Contrary to Camillo-Amisano's contention, the fact that he was seeking immediate release is insufficient to invoke habeas jurisdiction. *See id.* at 1072-73 (“[A] successful claim sounding in habeas necessarily results in release, but a claim seeking release does not necessarily sound in habeas.”). Rather, Camillo-Amisano needed to show that his detention is without legal authorization. *See id.* at 1070. Because he failed to do so, the district court properly dismissed his petition. *See id.* at 1073-75 (holding that the district court lacked jurisdiction over a § 2241 petition seeking release on the basis of prison conditions arising from the COVID-19 pandemic).

The record demonstrates that the Department of Justice received and denied Camillo-Amisano's request to be transferred to Canada, contradicting his contention that prison officials intentionally interfered with his transfer request by taking no action on it.

AFFIRMED.