NOT FOR PUBLICATION

FILED

SEP 25 2024

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN ERNEST DADE, Petitioner - Appellant, v. BRYAN BIRKHOLZ, Respondent - Appellee.	No. 24-2675 D.C. No. 2:22-cv-05907-JGB-AS MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted September 17, 2024**

Before: WARDLAW, BADE, and H.A. THOMAS, Circuit Judges.

John Ernest Dade appeals from the district court's judgment dismissing without prejudice his 28 U.S.C. § 2241 habeas petition. We dismiss for lack of jurisdiction.

* 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).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Dade's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Dade has filed a pro se supplemental opening brief. No answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses that there are no arguable issues as to whether the district court properly concluded that it lacked § 2241 jurisdiction. *See Jones v. Hendrix*, 599 U.S. 465, 471 (2023) ("§ 2255(e)'s saving clause does not permit a prisoner asserting an intervening change in statutory interpretation to circumvent [the Antiterrorism and Effective Death Penalty Act's] restrictions on second or successive § 2255 motions by filing a § 2241 petition."). Dade, therefore, was required to obtain a certificate of appealability ("COA") to proceed with this appeal. *See Porter v. Adams*, 244 F.3d 1006, 1007 (9th Cir. 2001) (order). Dade has not obtained a COA and we decline to grant one because he has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Porter*, 244 F.3d at 1007. We, therefore, dismiss this appeal for lack of jurisdiction. *See United States v. Mikels*, 236 F.3d 550, 552 (9th Cir. 2001).

Dade's pro se request for judicial notice is denied. All other pending motions are denied as moot.

Counsel's motion to withdraw is **GRANTED.**

DISMISSED.