

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2026

FOR THE NINTH CIRCUIT

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

DONALD ALFONSO ALLEN, AKA Wade
Nurse,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 25-1962

D.C. Nos.

2:24-cv-00822-SRB

2:10-cr-01232-SRB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted February 18, 2026**

Before: CALLAHAN, FRIEDLAND, and BRESS, Circuit Judges.

Donald Alfonso Allen appeals pro se from the district court's judgment denying his second petition for a writ of error coram nobis. We have jurisdiction under 28 U.S.C. § 1291. Reviewing de novo, *see United States v. Kroytor*, 977

* 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)*.

F.3d 957, 961 (9th Cir. 2020), we affirm.

In his petition, Allen sought to vacate his 2010 conviction for unlawful reentry, arguing that his underlying 2006 removal order was invalid and his attorney rendered ineffective assistance. We agree with the district court that Allen has failed to show valid reasons for the delay in challenging his conviction. *See id.* (stating requirements for coram nobis relief). The record shows that Allen raised similar claims in his 28 U.S.C. § 2255 motions, and insofar as he presented new arguments in his coram nobis petition, he could have reasonably asserted them earlier. *See id.* at 961-62. That Allen only recently learned his 2010 conviction would enhance his sentence for a new federal drug offense explains his motive in renewing his challenge to his 2010 conviction but does not justify his delay in seeking relief. *See Maghe v. United States*, 710 F.2d 503, 503-04 (9th Cir. 1983).

Because Allen's failure to meet this coram nobis requirement is dispositive, we do not address the parties' remaining arguments regarding Allen's petition. *See Matus-Leva v. United States*, 287 F.3d 758, 760 (9th Cir. 2002) ("Because [the coram nobis] requirements are conjunctive, failure to meet any one of them is fatal."). Allen also has not shown any error in the district court's treatment of his motion for default judgment.

The government's motion for judicial notice is granted; Allen's motion to strike it is denied. Allen's motion to file an amended reply brief is granted. The

clerk will file the amended reply brief at Docket Entry No. 29. Allen's motion to file an oversized reply brief and the oversized reply brief are deemed withdrawn.

AFFIRMED.