

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 12 2026

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEVELLE RURAL MERRITTE,

Defendant - Appellant.

No. 25-7003

D.C. No.

2:11-cr-00058-JAD-CWH-2

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Jennifer A. Dorsey, District Judge, Presiding

Submitted April 22, 2026\*\*

Before: LEE, DESAI, and JOHNSTONE, Circuit Judges.

Develle Rural Merritte appeals pro se from the district court's order denying his motion to award him sentencing credits. We have jurisdiction under 18 U.S.C. § 1291, and we affirm.

Merritte, who is serving concurrent federal and state sentences in state

---

\* 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).

custody, filed a motion in the district court asking the court to award him credits against his federal sentence to reflect his participation in rehabilitative programming. We agree with the district court that it lacked authority to do so. The administrative responsibility of computing and applying sentencing credit lies exclusively with the Attorney General, through the Bureau of Prisons (“BOP”). *See* 18 U.S.C. § 3624(b); *United States v. Wilson*, 503 U.S. 329, 333-35 (1992). Merritte argues that he cannot seek sentencing credits from the BOP because he is not in federal custody and, given the length of his state sentence, he is unlikely to be returned to federal custody before his federal sentence expires. Even if this circumstance renders exhaustion futile, which we do not decide, Merritte would need to raise that claim in a 28 U.S.C. § 2241 petition. *See United States v. Cabrera*, 83 F.4th 729, 740 (9th Cir. 2023).

**AFFIRMED.**