

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 16 2017

FOR THE NINTH CIRCUIT

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

CHARLES IZAC,

Petitioner-Appellant,

v.

MARION FEATHERS, Warden,

Respondent-Appellee.

No. 15-35938

D.C. No. 3:14-cv-01713-JE

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, Chief Judge, Presiding

Submitted August 9, 2017**

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Federal prisoner Charles Izac appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the dismissal of a section 2241 petition, *see Marrero v. Ives*, 682 F.3d 1190, 1192 (9th Cir. 2012), and we affirm.

* 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).

Izac was convicted in the Northern District of West Virginia of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and received an enhanced sentence under the Armed Career Criminal Act (“ACCA”) because he had suffered three prior convictions for first degree burglary from the State of Virginia. Izac filed a section 2241 habeas petition in the district of his confinement – the District of Oregon – challenging the legality of his sentence.

During the pendency of this appeal, the Fourth Circuit granted Izac authorization to file a second or successive section 2255 motion challenging his sentence. Izac currently has a section 2255 motion pending in Northern District of West Virginia case number 3:02-cr-00058-JPB-JES. In light of the pendency of this motion, Izac cannot show that section 2255 is “inadequate or ineffective to test the legality of his detention.” *Marrero*, 682 F.3d at 1192 (internal quotations omitted). The district court therefore properly dismissed Izac’s section 2241 petition for failing to meet the requirements of section 2255(h)’s escape hatch. *See id.*

All pending motions are denied.

AFFIRMED.