

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2019

FOR THE NINTH CIRCUIT

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

RICHARD D. POMEROY,

Petitioner-Appellant,

v.

STATE OF ALASKA,

Respondent-Appellee.

No. 18-35860

D.C. No. 3:18-cv-00061-TMB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, District Judge, Presiding

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Former Alaska state prisoner Richard D. Pomeroy appeals pro se from the district court's judgment dismissing his petition for a writ of error coram nobis. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal for lack of jurisdiction, *United States v. Monreal*, 301 F.3d 1127, 1130

* 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).

(9th Cir. 2002), and we affirm.

The district court properly dismissed Pomeroy's petition challenging his Alaska state conviction for assault because coram nobis relief is not available in federal court to attack a state court conviction. *See Hensley v. Municipal Court*, 453 F.2d 1252, 1253 n.2 (9th Cir. 1972) ("Coram nobis lies only to challenge errors occurring in the same court."), *rev'd on other grounds*, 411 U.S. 345 (1973).

Pomeroy's motion to waive the jurisdictional requirement is denied.

AFFIRMED.