

FEB 22 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL JOE KABINTO,

Defendant - Appellant.

No. 10-10214

D.C. No. 3:08-cr-01079-DGC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Daniel Joe Kabinto appeals from the district court's order recommitting him pursuant to 18 U.S.C. § 4246. We have jurisdiction under the collateral order doctrine, *see United States v. Godinez-Ortiz*, 563 F.3d 1022, 1026-29 (9th Cir. 2009), and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Kabinto contends that the district court does not have authority pursuant to 18 U.S.C. § 4246 to recommit him to an institution for a dangerousness assessment. As he concedes, however, this contention is foreclosed by *Godinez-Ortiz*, 563 F.3d at 1029-32.

AFFIRMED.