

JAN 27 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEONI PAYTON,

Petitioner - Appellant,

v.

JEFFREY THOMAS,

Respondent - Appellee.

No. 11-35183

D.C. No. 3:10-cv-00921-MO

MEMORANDUM*

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

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Federal prisoner Keoni Payton appeals from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, 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. Appellant. P. 34(a)(2).

Payton contends that the Bureau of Prisons (“BOP”) exceeded its authority by modifying his Residential Drug Abuse Treatment Program (“RDAP”) treatment plan to require that Payton repeat three months of treatment. The district court correctly determined that it lacked jurisdiction to review the BOP’s individualized determination made pursuant to 18 U.S.C. § 3621. *See* 18 U.S.C. § 3625; *Reeb v. Thomas*, 636 F.3d 1224, 1227-28 (9th Cir. 2011). Additionally, the record does not support Payton’s contention that the BOP acted unlawfully.

Payton further contends that he was retaliated against by being expelled from RDAP. This claim is not properly before the court. *See Park v. California*, 202 F.3d 1146, 1155 (9th Cir. 2000) (refusing to consider claims not properly raised in the habeas petition before the district court).

AFFIRMED.