

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2022

FOR THE NINTH CIRCUIT

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

CHRISTIAN GILBERT NADAL, AKA
Christian Gilbert Tony Nadal,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

No. 22-55262

D.C. Nos. 2:21-cv-07590-RSWL
2:93-cr-00698-RSWL-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Submitted November 15, 2022**

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Former federal prisoner Christian Gilbert Nadal appeals pro se from the district court's orders denying his petition for a writ of error coram nobis and motion for reconsideration, and declaring him a vexatious litigant and requiring pre-filing review. We have jurisdiction under 28 U.S.C. § 1291, 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).

Nadal first contends that he is entitled to coram nobis relief because he is actually innocent. Reviewing de novo, we conclude that the district court properly denied relief because Nadal did not demonstrate an error of the most fundamental character. *See United States v. Riedl*, 496 F.3d 1003, 1005-06 (9th Cir. 2007) (stating standard of review and requirements for coram nobis relief). For the same reason, the district court did not abuse its discretion in denying reconsideration. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993).

Nadal also challenges the pre-filing order, contending he has the right to collaterally attack his conviction because the courts have not yet addressed his request for declaratory relief. The district court did not abuse its discretion. *See De Long v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990). Prior to declaring Nadal a vexatious litigant, the district court provided Nadal notice and an opportunity to oppose the order. The court then made an adequate record of the numerous cases and motions over the past 28 years that led the court to conclude a pre-filing order was needed, made substantive findings of frivolousness based on Nadal's baseless and repetitive filings, and issued a narrowly tailored order that applies only to proceedings concerning his 1993 conviction. On this record, the pre-filing order was proper. *See id.* at 1147-48 (describing procedural requirements a district court must follow before issuing a pre-filing order).

AFFIRMED.