

AUG 14 2008

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NOT FOR PUBLICATION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.

TIMOTHY JOHN BOULE,

Defendant - Appellant.

No. 07-30378

D.C. No. CR-03-00015-DWM

ORDER *

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, Chief District Judge, Presiding

Argued and Submitted August 4, 2008
Seattle, Washington

Before: PREGERSON, CANBY, and NOONAN, Circuit Judges.

The United States Attorney's Office has represented that if a hearing is held it will defer to the judgment of Timothy Boule's probation officer, who does not believe further incarceration is necessary for the alleged violation at issue in this appeal. The hearing, therefore, would be pro forma. This court construes the

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

government's statement as agreement that no hearing is necessary and so none will be sought. The appeal is DISMISSED AS MOOT.