

AUG 05 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>JUVENILE MALE,</p> <p>Defendant - Appellant.</p>

No. 07-50511

D.C. No. CR-07-02273-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted July 22, 2008**

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges

Defendant appeals the district court’s finding of juvenile delinquency. He contends that the United States Attorney’s certification under 18 U.S.C. § 5032 for proceeding in federal court was deficient, and that the district court lacked

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

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

jurisdiction, because the U.S. Attorney certified only that a state prosecutor declined to prosecute defendant, and not that the state court lacked or refused jurisdiction. This contention is foreclosed by our recent decision in *United States v. Juvenile Male*, 528 F.3d 1146, 1153-54 (9th Cir. 2008) (holding that certification under § 5032 was proper because, when state prosecutor affirmatively declines to prosecute, state court does not have jurisdiction).

AFFIRMED.