

FEB 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRYAN E. RANSOM,

Petitioner - Appellant,

v.

DERRAL G. ADAMS,

Respondent - Appellee.

No. 07-15431

D.C. No. CV-05-01379-AWI

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted February 18, 2009\*\*

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

California state prisoner Bryan E. Ransom appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 petition, and the district court's

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\* 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).

order denying his motion for reconsideration. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Ransom contends that the district court erred in dismissing his petition as procedurally defaulted because he presented evidence that he was actually innocent of a serious rules violation which he contends resulted in his placement in a Security Housing Unit (“SHU”). Because the record reflects that Ransom was placed in SHU as a result of safety concerns, and not as a result of a rules violation, Ransom cannot overcome procedural default based upon actual innocence. *Cf. Smith v. Baldwin*, 510 F.3d 1127, 1139-40 (9th Cir. 2007) (en banc). In addition, Ransom has failed to raise “specific factual allegations that demonstrate the inadequacy” of the procedural basis relied on by the California Supreme Court. *See Cooper v. Brown*, 510 F.3d 870, 1001 (9th Cir. 2007) (quoting *Bennett v. Mueller*, 322 F.3d 573, 586 (9th Cir. 2003)).

Ransom further contends that the district court erred by summarily dismissing as non-cognizable his claim that he is entitled to release under Cal. Code Regs. tit. 15, § 3076(d). To the extent that this claim rests on the contention that prison officials declined to follow state law, we conclude it is not cognizable. *See Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1997). To the extent that Ransom contends that his detention in SHU violated due process, we conclude that

Ransom received the due process protections to which he was entitled. *See Wilkinson v. Austin*, 545 U.S. 209, 228-29 (2005).

**AFFIRMED.**