

MAY 21 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRENT HAMPTON,

Petitioner - Appellant,

v.

BRIAN E. BELLEQUE,

Respondent - Appellee.

No. 07-35988

D.C. No. CV-03-00436-REJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Robert E. Jones, District Judge, Presiding

Submitted May 12, 2009**

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

Oregon state prisoner Brent Hampton appeals from the district court's judgment denying his habeas petition under 28 U.S.C. § 2254. We have jurisdiction pursuant to 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 finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Hampton contends that his trial counsel was ineffective for improperly advising him on his sentencing exposure after trial, resulting in the rejection of a plea offer. Hampton has not demonstrated that his counsel's performance was deficient because the record does not reflect that a plea offer was extended. We conclude that the state court's decision rejecting Hampton's claim of ineffective assistance of counsel was not contrary to, and did not involve an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States, and that it was not based upon an unreasonable determination of the facts. *See* 28 U.S.C. § 2254(d); *see also Strickland v. Washington*, 466 U.S. 668, 687-88, 694 (1984).

We deny Hampton's motion to expand the certificate of appealability. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F. 3d 1098, 1104 (9th Cir. 1999) (per curiam).

AFFIRMED.