

JUN 30 2009

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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NOT FOR PUBLICATION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>JAMES LEWIS BROWN, Sr.,</p> <p>Defendant - Appellant.</p>
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No. 07-35929

D.C. No. CV-06-01095-MJP
CR-96-00548-WLD

MEMORANDUM *

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Federal prisoner James Lewis Brown, Sr., appeals from the district court’s judgment denying his 28 U.S.C. § 2255 motion. We have jurisdiction pursuant to

* 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).

28 U.S.C. § 2253, and we affirm.

Brown contends that he was denied his Sixth Amendment right to effective assistance of counsel because during resentencing proceedings, counsel failed to adequately present favorable evidence regarding the drug quantity attributable to him. We agree with the district court that this claim lacks merit. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984).

Brown also contends that the district court abused its discretion by denying his § 2255 motion without an evidentiary hearing. We disagree. *See United States v. Rodrigues*, 347 F.3d 818, 824, 827 (9th Cir. 2003).

AFFIRMED.