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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEXANDER OCASIO,

Petitioner - Appellant,

v.

E. K. McDANIEL,

Respondent - Appellee.

No. 08-16811

D.C. No. 3:08-cv-00251-LRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Submitted June 16, 2009**

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

On April 20, 2009, this court denied a certificate of appealability, to the extent one is required in this appeal, and if a certificate of appealability is

* 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).

unnecessary, ordered appellant to show cause as to why the district court's June 17, 2008, judgment should not be summarily affirmed. The court has received and reviewed appellant's response, filed on May 7, 2009. Accordingly, the order to show cause is discharged.

A review of the record and appellant's response indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED.