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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RODNEY L. GARROTT,

Petitioner - Appellant,

v.

MAGGIE MILLER-STOUT,
Superintendent,

Respondent - Appellee.

No. 07-35871

D.C. No. CV-06-01475-JCC

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, District Judge, Presiding

Submitted June 16, 2009**

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

Washington state prisoner Rodney L. Garrott appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253. 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).

Miller-Stout contends that Garrott's claims are procedurally defaulted. However, the district court did not consider whether the relevant state procedural bar was independent and adequate under state law. In addition, the record reflects that Garrott exhausted his claims. *See Sanders v. Ryder*, 342 F.3d 991, 999–1000 (9th Cir. 2003). Thus, we proceed to the merits. *See Franklin v. Johnson*, 290 F.3d 1223, 1232 (9th Cir. 2002); *see also Moran v. McDaniel*, 80 F.3d 1261, 1269 (9th Cir. 1996).

Garrott contends, among other things, that his trial counsel provided ineffective assistance by not investigating alibis and by pressuring him to plead guilty. We reject Garrott's contentions because they are conclusory and unsupported. *See Hill v. Lockhart*, 474 U.S. 52, 58–59 (1985).

We construe Garrott's uncertified contentions in his opening brief and in his subsequent filings to this court as motions to broaden the certificate of appealability, and deny the motions. *See Ninth Cir. R. 22-1(e)*; *see also Hivala v. Wood*, 195 F.3d 1098, 1104 (9th Cir. 1999) (per curiam).

Miller-Stout's motion to enlarge the record is also denied.

AFFIRMED.