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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALLAN PARMELEE, Petitioner - Appellant, v. JEFFREY UTTECHT, Respondent - Appellee.	No. 07-35275 D.C. No. CV-06-01589-RSM MEMORANDUM[*]

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted August 20, 2009[**]

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Washington state prisoner Allan Parmelee appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

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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).

NC/Research

Parmelee contends that the state's revocation of his in forma pauperis (IFP) status prior to appeal, and its failure to provide him with the trial transcript and an attorney to challenge the denial of his IFP status, violated his due process and equal protection rights under the federal constitution. Even assuming this claim is cognizable in a habeas petition, the contention fails because Parmelee has not shown that the trial court's revocation of his IFP status was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," or "based on an unreasonable determination of the facts." *See* 28 U.S.C. § 2254(d).

Parmelee contends that the district court erred by dismissing his ineffective assistance of counsel claim as unexhausted. The district court did not err. *See* 28 U.S.C. § 2254(b), (c).

Parmelee's remaining motions are denied.

AFFIRMED.