

DEC 11 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TERRY JOHNSON,

Petitioner - Appellant,

v.

JEAN HILL,

Respondent - Appellee.

No. 07-36083

D.C. No. CV-05-01504-BR

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Oregon state prisoner Terry Johnson appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition. We have jurisdiction

* 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).

pursuant to 28 U.S.C. § 2253, and we affirm.

Johnson contends that the trial court violated his Sixth Amendment rights by imposing consecutive sentences based on factual findings that were not proven beyond a reasonable doubt. Our independent review of the record, *see Larson v. Palmateer*, 515 F.3d 1057, 1062 (9th Cir. 2008), indicates that the state courts' rejection of Johnson's Sixth Amendment claim was not contrary to, and did not involve an unreasonable application of, clearly established Supreme Court law. *See* 28 U.S.C. § 2254(d)(1); *see also Oregon v. Ice*, 129 S. Ct. 711, 714-15 (2009); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

AFFIRMED.