

DEC 14 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

YOUNG HO CHANG,

Defendant - Appellant.

No. 07-35263

D.C. Nos. CV-06-05646-FDB
CR-05-05246-FDB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, TASHIMA, Circuit Judges.

Washington state prisoner Young Ho Chang appeals from the district court's judgment denying his 28 U.S.C. § 2255 motion. We have jurisdiction pursuant to 28 U.S.C. § 2253, and 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).

Chang contends that he received ineffective assistance of counsel when his trial attorney failed to inform him that he faced automatic deportation, based on the amount of loss and restitution involved in his conviction. Even assuming that counsel's advice constituted deficient performance, Chang has failed to show that there is a reasonable probability that, but for counsel's unprofessional errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Nor has Chang shown a reasonable probability that any attempted renegotiation of the plea agreement would have been successful. *Cf. United States v. Kwan*, 407 F.3d 1005, 1017-18 (9th Cir. 2005).

AFFIRMED.