

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PAUL JUNIOR RAMIREZ,

Petitioner - Appellant,

v.

DAVID L. RUNNELS, Warden,

Respondent - Appellee.

No. 07-56453

D.C. No. CV-04-00435-DSF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted November 17, 2009**

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

California state prisoner Paul Junior Ramirez appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. 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).

Ramirez contends that insufficient evidence supported his jury conviction for aiding and abetting attempted murder. However, the California Court of Appeal's determination that, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found Ramirez guilty beyond a reasonable doubt was not an unreasonable application of federal law. *See Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (describing standard for reviewing sufficiency of evidence claim).

Ramirez also contends that the trial court violated his constitutional right to present his theory of the case to the jury by refusing to instruct the jury on imperfect self-defense. However, the district court correctly determined that there was no evidence from which a jury reasonably could have concluded that the shooter had an actual but unreasonable belief that his life was in imminent danger. *See Solis v. Garcia*, 219 F.3d 922, 929 (9th Cir. 2000) (per curiam) (no constitutional error in refusing to give instruction where no substantial evidence supported it).

AFFIRMED.