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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>ENRIQUE AVALOS-BARRIGA,</p> <p>Defendant - Appellant.</p>
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No. 06-56693

D.C. Nos. CV-99-01686-BTM
CR-95-00973-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Federal prisoner Enrique Avalos-Barriga 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Because Avalos-Barriga's claim of ineffective assistance of counsel during trial has been explicitly addressed in a previous proceeding, we will not reconsider that issue. *See United States v. Avalos-Barriga*, 21 Fed.Appx. 626 (9th Cir. 2001).

We deny Avalos-Barriga's request to expand the certificate of appealability. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.