

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 25 2010

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

LUIS ROBERTO MARTINEZ,

Petitioner - Appellant,

v.

DARREL G. ADAMS, Warden,

Respondent - Appellee.

No. 08-56083

D.C. No. 2:05-cv-04057-DSF

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

California state prisoner Luis Roberto Martinez 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Martinez contends his trial counsel was ineffective for failing to conduct an adequate investigation and present evidence concerning the defense of third-party culpability. The record reflects that the state court's rejection of this claim was neither contrary to, nor an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *Strickland v. Washington*, 466 U.S. 668 (1984).

AFFIRMED.