

JAN 26 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALLEN LYNN JEFFRIES,

Petitioner - Appellant,

v.

M. KNOWLES,

Respondent - Appellee.

No. 07-56129

D.C. No. CV-06-06996-ER

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Edward Rafeedie, District Judge, Presiding

Submitted January 11, 2010**

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

California state prisoner Allen Lynn Jeffries appeals pro se from the district court's judgment dismissing 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).

The district court properly dismissed Jeffries' petition as successive because it was his third petition challenging the Board of Prison Terms' 2004 finding that Jeffries was not suitable for parole, and Jeffries had not obtained an order from this court pursuant to 28 U.S.C. § 2244(b)(3)(A). *See Cooper v. Calderon*, 274 F.3d 1270, 1274 (9th Cir. 2001) (per curiam). We affirm the district court.

We also construe Jeffries' appeal as a motion for an order authorizing the district court to consider his successive petition. *See* 28 U.S.C. § 2244(b)(3)(A). So construed, we deny the motion because Jeffries fails to make "a prima facie showing that the application satisfies the requirements of" § 2244(b)(2). *See* 28 U.S.C. § 2244(b)(3)(C).

AFFIRMED.