

JAN 27 2010

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DERRICK LEE SLEDGE,

Petitioner - Appellant,

v.

BEN CURRY**,

Respondent - Appellee.

No. 07-55581

D.C. No. CV-03-01190-CAS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Argued and Submitted January 15, 2010
Pasadena, California

Before: GOODWIN, SCHROEDER and FISHER, Circuit Judges.

Derrick Sledge, a California state prisoner, appeals the district court's denial of his 28 U.S.C. § 2254 petition for a writ of habeas corpus. He argues the state court improperly denied his motion to suppress statements he made to police

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Pursuant to Rule 43(c)(2) of the Federal Rules of Appellate Procedure, Ben Curry is substituted for L.R. Blanks as Warden.

without first being advised of his *Miranda* rights. *See Miranda v. Arizona*, 384 U.S. 436, 444-45 (1966). The state court determined that *Miranda* warnings were not necessary because Sledge was not “in custody” when two police officers temporarily detained and briefly questioned him in the lobby of a bank before they arrested him. *See Stansbury v. California*, 511 U.S. 318, 322 (1994). The state court’s decision was not contrary to or an unreasonable application of clearly established federal law, nor was it based on an unreasonable determination of the facts in light of the evidence presented in the state court proceedings. 28 U.S.C. § 2254(d); *cf. Berkemer v. McCarty*, 468 U.S. 420, 442 (1984); *United States v. Woods*, 720 F.2d 1022, 1029-30 (9th Cir. 1983). Therefore, the district court properly denied relief.

AFFIRMED.