

MAR 02 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CHRIS C. MENELEE,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>TOM FELKER,</p> <p>Respondent - Appellee.</p>
--

No. 08-55657

D.C. No. 2:06-cv-08096-CAS

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

California state prisoner Chris C. Menefee appeals from the district court's order 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).

Menefee contends that there was insufficient evidence to support the jury's finding that he committed the offense "with the specific intent to promote, further, or assist in any criminal conduct by gang members" under California Penal Code section 186.22(b)(1). The record reflects that the state court's rejection of this claim was neither contrary to, nor involved an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *see also Jackson v. Virginia*, 443 U.S. 307, 324 (1979).

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

AFFIRMED.