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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAMONA HOLDERMAN,

Petitioner - Appellant,

v.

DORA B. SCHRIRO; et al.,

Respondents - Appellees.

No. 07-17292

D.C. No. CV-06-03016-SMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted February 16, 2010**

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

Arizona state prisoner Ramona Holderman appeals from the district court's judgment dismissing her 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).

Holderman contends that her aggravated sentence violates the Sixth Amendment because the trial court relied on judge-found aggravating factors to sentence her above the presumptive sentencing range. Because the state trial judge relied on at least one permissible factor in enhancing Holderman's sentence, the Arizona Supreme Court's decision rejecting this claim was neither contrary to, nor an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *see also* *Butler v. Curry*, 528 F.3d 624, 643 (9th Cir. 2008).

Holderman also contends that her due process rights were violated when the trial judge failed to give her notice that he would consider certain aggravating factors. The district court did not err in dismissing this claim as unexhausted and procedurally defaulted. *See* *Beaty v. Stewart*, 303 F.3d 975, 987 (9th Cir. 2002).

AFFIRMED.