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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHNNY COVAL SMITH,

Petitioner - Appellant,

v.

KEN CLARK,

Respondent - Appellee.

No. 07-55837

D.C. No. CV-06-05739-JSL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

* 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).

California state prisoner Johnny Coval Smith appeals pro se 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.

Smith contends that the California Department of Corrections ("CDC") miscalculated his sentencing credits under California law, and thus violated the Ex Post Facto Clause, the Sixth and Eighth Amendments, and the Fourteenth Amendment right to equal protection. We agree with the district court that Smith failed to raise a cognizable federal claim, and that he failed to show a deprivation of a federally protected right. Smith failed to demonstrate that the CDC's decision not to apply sentencing credits to his life sentence was contrary to or an unreasonable application of clearly established federal law, or that it was based on an unreasonable determination of facts in light of the evidence before it. *See* 28 U.S.C. § 2254(d)(1); *see also Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991).

AFFIRMED.