

APR 16 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THOMAS BROWER,

Petitioner - Appellant,

v.

BRIAN BELLEQUE, Superintendent,
OSP,

Respondent - Appellee.

No. 08-35391

D.C. No. 6:06-cv-01273-ALA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ann L. Aiken, Chief District Judge, Presiding

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Oregon state prisoner Thomas Brower appeals 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.

* 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).

Brower contends that he received ineffective assistance of counsel because his state trial attorney did not inform him that he was pleading guilty to two ninety-month sentences to be served consecutively. The state court's factual determination that Brower understood that he was pleading to 180 months was not unreasonable "in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d)(2). Moreover, the state court's conclusion that Brower had failed to establish that counsel was ineffective was not "contrary to, or . . . an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U.S.C. § 2254(d)(1). *See Strickland v. Washington*, 466 U.S. 668, 687 (1984); *see also Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

AFFIRMED.