

APR 19 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEVEN ERIC WALKER,

Petitioner - Appellant,

v.

D. K. SISTO; ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA,

Respondents - Appellees.

No. 08-16772

D.C. No. 2:07-cv-00967-ALA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Arthur L. Alarcón, Circuit Judge, Presiding

Submitted April 5, 2010**

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

California state prisoner Steven Eric Walker 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.

* 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).

Walker contends that the Board of Prison Terms violated his due process rights by delaying his parole hearings in violation of California Penal Code §§ 3000, 3041, and 3041.5. The California Court of Appeal's decision denying Walker's claim was neither contrary to, nor an unreasonable application of, clearly established Supreme Court law. *See* 28 U.S.C. § 2254(d)(1); *see also Estelle v. McGuire*, 502 U.S. 61, 67-70 (1991).

We decline to consider Walker's claim of cruel and unusual punishment as he raised it for the first time on appeal. *See Morgan v. Bunnell*, 24 F.3d 49, 52 (9th Cir. 1994).

AFFIRMED.