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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEVIN DAVID ROBINSON,

Petitioner - Appellant,

v.

TOM L. CAREY; et al.,

Respondents - Appellees.

No. 07-16226

D.C. No. CV-03-02180-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Submitted April 5, 2010**

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

California state prisoner Kevin David Robinson appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have

* 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).

jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Robinson contends that the California Department of Corrections and Rehabilitation (“CDCR”) unlawfully converted his sentence of sixteen-years-to-life into life without possibility of parole, in violation of his constitutional rights. Assuming, without deciding, that Robinson has raised a cognizable due process claim, the state court’s decision rejecting this claim was neither contrary to, nor involved an unreasonable application of, clearly established federal law, nor was based upon an unreasonable determination of the facts in light of the evidence presented in state court proceedings. *See* 28 U.S.C. § 2254(d); *see also Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991). Robinson’s contention that the CDCR failed to award applicable sentencing credits is belied by the record.

Robinson’s request for appointment of counsel is denied.

AFFIRMED.