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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM B. GREENE,

Petitioner - Appellant,

v.

JEFFERY UTTECHT,

Respondent - Appellee.

No. 08-35967

D.C. No. 2:08-cv-00040-RSL

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Robert S. Lasnik, Chief District Judge, Presiding

Submitted May 25, 2010\*\*

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Washington state prisoner William B. Greene appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

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\* 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).

Greene contends that the trial court committed constitutional error by: (1) giving a standard jury instruction on insanity rather than an instruction specifically tailored to his theory that he suffered from dissociative identity disorder; and (2) giving a voluntary act instruction that conflicted with his diminished capacity defense. Greene's claims of instructional error are issues of state law that are not cognizable on federal habeas review. *See Hendricks v. Vasquez*, 974 F.2d 1099, 1107 (9th Cir. 1992). The state court's decision rejecting Greene's contention was not contrary to, and did not involve an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States. *See* 28 U.S.C. § 2254(d)(1); *see also Estelle v. McGuire*, 502 U.S. 62, 70-72 (1991).

We construe Greene's additional arguments as a motion to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F. 3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

**AFFIRMED.**