

JUN 15 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GRANVAL G. HUNTER,

Petitioner - Appellant,

v.

MATTHEW KRAMER, Warden; et al.,

Respondents - Appellees.

No. 08-16791

D.C. No. 2:07-cv-02792-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted May 25, 2010**

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

California state prisoner Granval G. Hunter appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 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).

Hunter contends that his time-barred habeas petition should be addressed on the merits because he is actually innocent of the conduct used to enhance his sentence. Because Hunter has failed to present any evidence of his innocence, the district court did not err by dismissing his petition. *See Schlup v. Delo*, 513 U.S. 298, 316-17 (1995).

AFFIRMED.