

AUG 26 2010

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RONALD JOHNSON,

Petitioner - Appellant,

v.

JEAN HILL, Superintendent,

Respondent - Appellee.

No. 09-35709

D.C. No. 1:07-cv-00872-PA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Owen M. Panner, District Judge, Presiding

Submitted August 10, 2010 **

Before: HAWKINS, McKEOWN, and IKUTA, Circuit Judges.

Oregon state prisoner Ronald Johnson appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition challenging his jury-trial

* 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).

conviction for attempted aggravated murder. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

Johnson contends that his counsel on direct appeal was ineffective because he failed to challenge the sufficiency of the evidence at trial. After an independent review of the record, we determine that the Oregon courts' determination that counsel was not ineffective was not contrary to, or an unreasonable application of, clearly established Supreme Court case law. *See* 28 U.S.C. § 2254(d); *see also* *Smith v. Murray*, 477 U.S. 527, 536 (1986) (“This process of winnowing out weaker arguments on appeal and focusing on those more likely to prevail, far from being evidence of incompetence, is the hallmark of effective appellate advocacy.”) (quotation marks omitted).

AFFIRMED.