

OCT 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>GORDON GOEI,</p> <p>Defendant - Appellant.</p>

No. 08-50480

D.C. No. 2:07-cr-01444-RT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert J. Timlin, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Gordon Goei appeals from his jury trial conviction and 41-month sentence for wire fraud, in violation of 18 U.S.C. § 1343; evasion of income tax, in violation of 26 U.S.C. § 7201; and aiding and abetting, in violation of 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, 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).

Goei contends that he was denied his Sixth Amendment right to effective assistance of counsel when his trial attorney failed to present a defense, failed to present any witnesses, failed to cross examine two witnesses, and failed to offer any proposed jury instructions. We decline to review these claims on direct appeal as the record is insufficiently developed and the legal representation was not so inadequate that it obviously denied Goei his Sixth Amendment right to counsel. *See United States v. Benford*, 574 F.3d 1228, 1231 (9th Cir. 2009).

AFFIRMED.