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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERT SMITH JR.,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>BELINDA STEWART, Superintendent, Stafford Creek Corrections Cent; INDETERMINATE SENTENCE REVIEW BOARD, State of Washington,</p> <p>Respondents - Appellees.</p>
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No. 09-35831

D.C. No. 2:07-cv-00166-RSL

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Washington state prisoner Robert Smith Jr. appeals from the district court's judgment dismissing with prejudice his 28 U.S.C. § 2254 habeas petition. We

* 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).

have jurisdiction under 28 U.S.C. § 2253. We may affirm on any ground supported by the record. *See United States v. Tello*, 600 F.3d 1161, 1167 n.6 (9th Cir. 2010).

Smith challenges the Indeterminate Sentence Review Board’s (the Board”) 2005 decision finding him unsuitable for parole and in extending his minimum sentence by 60 months. He contends that the Board abused its discretion and acted contrary to Washington state law.

Smith’s challenges to the application of Washington law are not cognizable in federal habeas proceedings. *See Lewis v. Jeffers*, 497 U.S. 764, 780 (1990) (“[F]ederal habeas corpus relief does not lie for errors of state law.”); *see also* 28 U.S.C. § 2254(a).

We need not address the state’s procedural default and exhaustion arguments because Smith’s petition is clearly without merit. *See Franklin v. Johnson*, 290 F.3d 1223, 1232 (9th Cir. 2002).

The State’s Motion to Dismiss Appeal is denied.

AFFIRMED.