

FEB 28 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENYA MARQUIS HUTSON, AKA Ken
Hutson, AKA Kenya Markisha Hutson,

Defendant - Appellant.

No. 09-55130

D.C. Nos. 2:08-cv-02335-JFW
2:04-cr-00011-JFW-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Argued and Submitted February 15, 2011
Pasadena, California

Before: RYMER and BYBEE, Circuit Judges, and QUIST, Senior District Judge.**

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Gordon J. Quist, Senior District Judge for the U.S. District Court for Western Michigan, Grand Rapids, sitting by designation.

Appellant Kenya Markisha Hutson appeals the district court's denial of his Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255. The district court denied his motion without holding an evidentiary hearing. The district court did not abuse its discretion in deciding his motion without an evidentiary hearing. *Blackledge v. Allison*, 431 U.S. 63, 74 n.4 (1977); *Watts v. United States*, 841 F.2d 275, 277 (9th Cir. 1988). Furthermore, Hutson failed to establish a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 694 (1984).

AFFIRMED.