

APR 11 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JACKIE OSBY,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>J. F. SALAZAR, Warden,</p> <p>Respondent - Appellee.</p>
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No. 08-55913

D.C. No. 2:07-cv-04439-ODW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright, District Judge, Presiding

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Jackie Osby appeals pro se from the district court's judgment denying his
28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253,***

* 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).

*** We certify for appeal, on our own motion, the issue of whether Osby was entitled to a 19-year determinate sentence. We decline to certify the additional arguments. See 9th Cir. R. 22-1(e); see also *Hiivala v. Wood*, 195 F.3d 1098,

and we affirm.

Osby contends that his right to due process was violated because he was denied parole in violation of the terms of his plea agreement. The record belies Osby's claim that the state offered a determinate 19-year sentence. Further, the state court's rejection of this claim was neither contrary to, nor involved an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *cf. Brown v. Poole*, 337 F.3d 1155, 1159-60 (9th Cir. 2003).

Osby's motion for appointment of counsel is denied.

AFFIRMED.

1104-05 (9th Cir. 1999) (per curiam).