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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RENE CAZARES,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>W. J. SULLIVAN, et al.,</p> <p>Respondents - Appellees.</p>
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No. 09-16493

D.C. No. 2:05-cv-00625-FCD-DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, Jr., District Judge, Presiding

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

California state prisoner Rene Cazares appeals pro se from the district court's order denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253 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).

Cazares contends that his trial counsel was ineffective. The California Court of Appeal's determination that Cazares did not demonstrate that his attorney failed to investigate his case or that he was prejudiced by his attorney's actions was not an unreasonable application of *Strickland v. Washington*, 466 U.S. 668 (1984). See 28 U.S.C. § 2254(d); *Harrinton v. Richter*, 131 S. Ct. 770, 785-87 (2011).

Cazares also contends that the trial court erroneously denied his motion to represent himself, made after jury selection had begun. The California Court of Appeal's determination that Cazares' motion was untimely rested on a reasonable determination of the facts and was not contrary to *Faretta v. California*, 422 U.S. 806 (1975). See 28 U.S.C. § 2254(d); *Marshall v. Taylor*, 395 F.3d 1058, 1061-62 (9th Cir. 2005).

Cazares' motion for appointment of appellate counsel and accompanying requests are denied.

AFFIRMED.