

OCT 4 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARMANDO AVILA-LUCAS,

Petitioner - Appellant,

v.

BRIAN BELLEQUE,

Respondent - Appellee.

No. 09-36054

D.C. No. 6:07-cv-01157-AA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ann L. Aiken, Chief District Judge, Presiding

Submitted September 27, 2011**

Before: HAWKINS, SILVERMAN, and W. FLETCHER, Circuit Judges.

Oregon state prisoner Armando Avila-Lucas appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

Avila-Lucas contends that his trial counsel provided ineffective assistance

* 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).

by failing to advise him of the highest minimum sentence he faced. The state court's determination that Avila-Lucas was not denied the right to effective assistance of counsel was neither contrary to, nor an unreasonable application of *Strickland v. Washington*, 466 U.S. 668 (1984). See 28 U.S.C. § 2254(d)(1); *Harrington v. Richter*, 131 S. Ct. 770, 785 (2011).

Avila-Lucas also contends that his plea was not knowing, voluntary, and intelligent. The state court's contrary determination was not an unreasonable application of Supreme Court precedent. See 28 U.S.C. § 2254(d)(1); *Hill v. Lockhart*, 474 U.S. 52, 56-58 (1985). To the extent Avila-Lucas's claim is based on the state court's refusal to admit the Mexican Consul's affidavit, his claim is not cognizable. See *Swarthout v. Cooke*, 131 S. Ct. 859, 862-63 (2011) (per curiam) (federal habeas relief does not lie for errors of state law).

AFFIRMED.