NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES FRANK LOWERY, Petitioner - Appellant, v. DARREN SWENSON, Respondent - Appellee.	No. 06-35810 D.C. No. CV-06-05112-RBL MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Washington state prisoner Charles Frank Lowery ("Lowery") appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

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

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

AH/Research

Lowery contends that his Sixth Amendment right to effective assistance of counsel was violated when counsel failed to adequately investigate and warn him about the unreliability of polygraph examinations, and when the attorney failed to ensure that the prosecution had sufficient evidence to convict Lowery on all of the charged counts.

We agree with the district court's conclusion that Lowery failed to show that his trial counsel's performance fell below an objective standard of reasonableness, or that any deficient performance caused prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985) (reaffirming that the *Strickland* standard "applies to challenges to guilty pleas based on ineffective assistance of counsel"). The state court's decision rejecting Lowery's claim was not contrary to or an unreasonable application of clearly established federal law. *See* 28 U.S.C. § 2254(d)(1).

To the extent that Lowery raises uncertified issues, we construe such argument as a motion to broaden the certificate of appealability, and we deny the motion. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.