

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 16 2008

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMAL HAQQ,

Defendant - Appellant.

No. 06-56009

D.C. Nos. CV-04-09307-RMT
CR-00-00847-RMT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert M. Takasugi, District Judge, Presiding

Submitted July 14, 2008**
Pasadena, California

Before: SILVERMAN, RAWLINSON, and M. SMITH, Circuit Judges.

* 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).

The district court properly denied Appellant Jamal Haqq's (Haqq) habeas petition. The district court did not abuse its discretion in denying an evidentiary hearing, as Haqq failed to demonstrate that "his inability to testify was prejudicial." *Medley v. Runnels*, 506 F.3d 857, 861 (9th Cir. 2007). Nor was Haqq able to "allege specific facts which, if true, would entitle him to relief." *United States v. Rodrigues*, 347 F.3d 818, 824 (9th Cir. 2003)(citation omitted).

We do not address the uncertified issue asserting ineffective assistance of counsel for failing to interview a particular witness, as Haqq is unable to make the requisite "substantial showing of the denial of a constitutional right" warranting an expansion of the certificate of appealability. *United States v. Cruz*, 423 F.3d 1119, 1120 (9th Cir. 2005) (citations omitted).

AFFIRMED.