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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DONALD D. BONE,

Petitioner - Appellant,

v.

GAIL LEWIS,

Respondent - Appellee.

No. 06-16095

D.C. No. CV-01-04971-MMC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted June 18, 2008**

Before: REINHARDT, LEAVY, and CLIFTON, Circuit Judges.

California state prisoner Donald D. Bone appeals pro se from the district court's judgment denying his habeas petition under 28 U.S.C. § 2254. We have jurisdiction pursuant to 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 finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Bone contends that his trial counsel was ineffective for failing to pursue a motion to dismiss the information. Bone fails to show that his attorney's representation fell below an objective standard of reasonableness, or that he was prejudiced by the tactical decision not to follow through on the motion. *See Doe v. Woodford*, 508 F. 3d 563, 568-69 (9th Cir. 2007). Accordingly, the state court's decision rejecting Bone's claim of ineffective assistance of counsel was not contrary to, and did not involve an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States. *See* 28 U.S.C. § 2254(d)(1); *see also Strickland v. Washington*, 466 U.S. 668, 687-88, 694 (1984).

To the extent that Bone raises additional uncertified issues, we construe his arguments as a motion to expand the certificate of appealability, and we deny the motion. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F. 3d 1098, 1104 (9th Cir. 1999) (per curiam).

AFFIRMED.