

JUL 10 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PETER MICHAEL BERGNE,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p>v.</p> <p>UNITED STATES DISTRICT COURT; et al.,</p> <p style="text-align: center;">Respondents - Appellees.</p>
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No. 08-15346

D.C. No. CV-07-03413-THE

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Thelton E. Henderson, District Judge, Presiding

Submitted June 27, 2008**

Before: LEAVY, THOMAS and FISHER, Circuit Judges.

On April 29, 2008, this court concluded that because appellant challenges a condition of confinement in this appeal, a certificate of appealability is

* 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).

unnecessary. *See* 28 U.S.C. § 2253(c)(2). By same order, this court ordered appellant to show cause as to why the district court's July 10, 2007, judgment should not be summarily affirmed.

A review of appellant's response to the court's order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED.