

AUG 05 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN FREDERICK HARDNEY,

Petitioner - Appellant,

v.

THOMAS CAREY; et al.,

Respondents - Appellees.

No. 07-16901

D.C. No. CV-06-00613-JKS

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of California
James K. Singleton, Senior District Judge, Presiding

Submitted July 25, 2008**
San Francisco, California

Before: TASHIMA, GRABER and PAEZ, Circuit Judges.

On May 30, 2008, this court concluded that, to the extent a certificate of appealability is required in this appeal, the request for a certificate of appealability

* 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).

is denied. By the same order, the court directed appellant to show cause, within 21 days, why this appeal should not be summarily affirmed for the reasons stated by the district court in its September 28, 2007 order.

To the extent appellant's response to the court's order to show cause seeks clarification of the district court's September 28, 2007 order, the request is granted. Our review of the district court's order reflects that the district court dismissed district court case no. CIV-S-06-0613.

Further, a review of the record and appellant's response 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).

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

AFFIRMED.