

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 11 2008

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

CHARLES CARR,

Petitioner - Appellant,

v.

MATTHEW C. KRAMER,

Respondent - Appellee.

No. 07-15608

D.C. No. CV-03-01369-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Argued and Submitted November 20, 2008
San Francisco, California

Before: FERNANDEZ, T.G. NELSON and THOMAS, Circuit Judges.

Petitioner Charles Carr appeals from the order of the district court denying his habeas petition. We have jurisdiction pursuant to 28 U.S.C. § 2254, and we affirm.

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

The Supreme Court has not clearly established the parameters of the “hot pursuit” exception to the warrant requirement, and in particular, has not clearly established whether the fact of hot pursuit alone justifies entry into a private residence to arrest a fleeing suspect. *United States v. Santana*, 427 U.S. 38, 42-43 (1976); *see also Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984); *Warden v. Hayden*, 387 U.S. 294, 298 (1967). Accordingly, the decision of the California Court of Appeal denying Carr’s ineffective assistance of counsel claim was not contrary to, or an unreasonable application of, clearly established Supreme Court precedent. *See* 28 U.S.C. § 2254(d).

The record does not support expansion of the certificate of appealability in order to reach issues uncertified by the district court. *See* 28 U.S.C. § 2253(c).

AFFIRMED.