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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CEKOVEN JEWEL JOHNSON, aka Darrell Thomas, Duke, Petitioner - Appellant, v. ROBERT A. HOREL, Warden, Respondent - Appellee.	No. 07-56369 D.C. No. CV-06-03263-JSL MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Argued and Submitted November 2, 2009
Pasadena, California

Before: SCHROEDER, IKUTA, and SILER,** Circuit Judges.

Cekoven Johnson, a California state prisoner, appeals the district court's denial of his writ of habeas corpus challenging his conviction of two counts of

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

** The Honorable Eugene E. Siler, Jr., Senior United States Circuit Judge for the Sixth Circuit, sitting by designation.

attempted premeditated murder. He claims the evidence was insufficient to support the convictions.

The evidence showed that Johnson and his co-defendant saw the victims, who were members of a rival gang, and pushed and then drove their car along-side the rival gang members. After Johnson brandished a gun at the victims and shouted a derogatory description of the rival gang, multiple gunshots were fired. The evidence, viewed in the light most favorable to upholding the verdict, was sufficient for a rational fact-finder to conclude beyond a reasonable doubt that Johnson was guilty of attempted premeditated murder. See Jackson v. Virginia, 443 U.S. 307, 319 (1979). The California court's application of Jackson was not unreasonable. See 28 U.S.C. § 2254(d)(1).

Johnson also asks us to broaden the certificate of appealability to decide whether the trial court erred in its instructions to the jury on the use of circumstantial evidence. The issue does not present a federal question. It is a question of state law that does not rise to the level of a violation of due process. See Estelle v. McGuire, 502 U.S. 62, 71-72 (1991).

The judgment of the district court is AFFIRMED.