

SEP 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BANQUO D. YOUNG,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JOE MCGRATH,</p> <p>Respondent - Appellee.</p>
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No. 08-16021

D.C. No. 2:03-cv-01674-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Banquo D. Young appeals from the district court’s order denying his 28 U.S.C. § 2254 habeas petition. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Young’s counsel has filed a brief stating there are no grounds for relief with regard to the certified issue and a motion to withdraw as counsel of record.

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have provided the appellant with the opportunity to file a pro se supplemental brief and we have considered his November 19, 2008 informal brief. No answering brief has been filed.

The state court's determination of the issue certified for appeal, that sufficient evidence was presented at Young's trial to support his convictions, was not contrary to, nor involved an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief. Accordingly, we deny counsel's request to expand the certificate of appealability. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (*per curiam*).

We construe the due process arguments in Young's pro se supplemental brief as a motion to expand the certificate of appealability. So construed, the motion is denied. *See id.*

Counsel's motion to withdraw is **GRANTED**, and the district court's judgment is **AFFIRMED**.