

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCTOBER 30 2014
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

COLIN NATHANSON,

Defendant - Appellant.

No. 13-56410

D.C. Nos. 8:12-cv-01978-CJC
8:05-cr-00301-CJC-1

MEMORANDUM*

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

Argued and Submitted October 7, 2014
Pasadena, California

Before: TALLMAN, BEA, and FRIEDLAND, Circuit Judges.

Colin Nathanson appeals the district court's denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his 324-month sentence for mail fraud. We have jurisdiction under 28 U.S.C. § 2255(d), and we affirm.

Nathanson has not shown "that counsel's representation fell below an objective standard of reasonableness." *See Strickland v. Washington*, 466 U.S.

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

668, 687-88 (1984). Appellate counsel are not required to raise every nonfrivolous claim in a merits brief, and “[g]enerally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome.” *Smith v. Robbins*, 528 U.S. 259, 288 (2000) (quoting *Gray v. Greer*, 800 F.2d 644, 646 (7th Cir. 1986)). It was not clear that a due process claim based on *Bearden v. Georgia*, 461 U.S. 660 (1983), would have been stronger than the claims Nathanson’s counsel actually raised.

AFFIRMED.