FILED

JUL 03 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. SCOTT WELKER, Defendant - Appellant.	No. 11-55064 D.C. Nos. 8:10-cv-00984-AG 8:06-cr-00209-AG-1 MEMORANDUM*

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

Argued and Submitted June 4, 2012
Pasadena, California

Before: TROTT and THOMAS, Circuit Judges, and SEEBORG, District Judge.**

Scott Welker appeals from the district court's order denying, as procedurally defaulted, his 28 U.S.C. § 2255 habeas motion challenging his guilty-plea conviction and 33-month sentence for honest services wire fraud, in violation of 18

---

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

** The Honorable Richard Seeborg, United States District Judge for the Northern District of California, sitting by designation.

U.S.C. §§ 1343 and 1346. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

Welker, citing Skilling v. United States, 130 S. Ct. 2896, 2931 (2010), contends he is actually innocent of the charge to which he pleaded guilty, thereby excusing his procedural default. However, substantial evidence supports the district court's findings and conclusions that Welker has failed to demonstrate that he is actually innocent of multiple counts of traditional wire fraud and more serious charges of bank fraud that the government agreed to forego during the course of plea negotiations. See Bousley v. United States, 523 U.S. 614, 624 (1998).

AFFIRMED.