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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEVEN LEE, Petitioner - Appellant, v. MIKE EVANS, Respondent - Appellee.	No. 07-56185 D.C. No. CV-05-05143-SVW MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

California state prisoner Steven Lee appeals pro se from the district court's judgment denying his habeas petition under 28 U.S.C. § 2254. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

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

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

AK/Research

Lee contends that the the trial court's inclusion of extraneous documents with the written jury instructions deprived him of his constitutional right to due process. We conclude that the state court's determination that there is no evidence that the documents were given to the jury was not based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding. *See* 28 U.S.C. § 2254(d)(2), (e)(1); *Gonzalez v. Duncan*, 551 F.3d 875, 879 (9th Cir. 2008).

Lee also contends that the trial court violated his right to due process by allowing the state to amend the information to add additional allegations of prior-strike convictions. There is no clearly established U.S. Supreme Court authority supporting Lee's claim of error. *See* 28 U.S.C. § 2254(d)(1); *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000); *Davis v. Woodford*, 446 F.3d 957, 963 (9th Cir. 2006).

AFFIRMED.