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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIO RENE RUBIO,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>C. M. HARRISON, Warden,</p> <p>Respondent - Appellee.</p>
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No. 07-55110

D.C. No. CV-04-03710-MLR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

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

* 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).

Rubio contends that his prison disciplinary proceedings violated his due process rights because there was insufficient evidence to support the hearing officer's finding that Rubio engaged in mutual combat. This contention fails because "some evidence" in the record supports the finding. *See Superintendent v. Hill*, 472 U.S. 445, 455 (1985).

AFFIRMED.