FILED

NOT FOR PUBLICATION

MAR 03 2010

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES E. DAILEY,

   Petitioner - Appellant,

 v.

MICHAEL MARTEL,

   Respondent - Appellee.

No. 07-55791

D.C. No. CV-05-01504-JTM

MEMORANDUM[*]

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted: February 16, 2010[**]

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

 California state prisoner James E. Dailey 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.

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

Dailey contends the trial court violated his right to present a defense and to closing arguments by precluding him from introducing third-party culpability evidence. The state court's rejection of these claims was neither contrary to, nor an unreasonable application of, clearly established federal law. Dailey fails to show the proffered evidence was admissible under *People v. Hall*, 41 Cal. 3d 826 (1986). Therefore, its exclusion did not violate his constitutional right to present a defense under *Crane v. Kentucky*, 476 U.S. 683, 690 (1986), nor his right to closing arguments under *Herring v. New York*, 422 U.S. 853, 857-63 (1975).

Dailey also raises a number of uncertified claims. Dailey has not "made a substantial showing of the denial of a constitutional right" regarding these claims. *See* 28 U.S.C. § 2253(c)(2); *Doe v. Woodford*, 508 F.3d 563, 567 (9th Cir. 2007). His motion to expand the certificate of appealability to include these claims is therefore denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.