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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THEODORE ROOSEVELT FIELDS,

Petitioner - Appellant,

v.

STUART J. RYAN,

Respondent - Appellee.

No. 06-55458

D.C. No. CV-04-01276-DDP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted February 16, 2010**

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

California state prisoner Theodore Roosevelt Fields 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).

Fields contends that his due process rights were violated when the trial court admitted identification evidence that was unduly suggestive. The California Court of Appeal's decision rejecting this claim was neither contrary to, nor involved an unreasonable application of, clearly established federal law as determined by the Supreme Court of the United States. *See* 28 U.S.C. § 2254(d)(1); *see also* *Manson v. Brathwaite*, 432 U.S. 98, 106, 114 (1977). Moreover, because the evidence was cumulative to Fields' admission that he was the man in the video, it did not have a "substantial and injurious effect or influence in determining the jury's verdict." *See Brecht v. Abrahamson*, 507 U.S. 619, 637-38 (1993) (internal quotation marks and citations omitted).

AFFIRMED.