

MAR 10 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARRYL ALLEN SMITH,

Petitioner - Appellant,

v.

J.F. SALAZAR, Warden,

Respondent - Appellee.

No. 07-56393

D.C. No. CV-07-00242-SJO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

Submitted February 16, 2010**

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

California state prisoner Darryl Allen Smith appeals 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).

Smith contends that his constitutional rights were violated when the trial court refused to excuse a juror who allegedly harbored a bias against him. The state court'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); *Smith v. Phillips*, 455 U.S. 209, 215 (1982); *Ristaino v. Ross*, 424 U.S. 589, 595 n.6 (1976). Moreover, the state court's decision did not constitute an unreasonable determination of the facts in light of the evidence presented. *See* 28 U.S.C. § 2254(d)(2), (e)(1); *Wainwright v. Witt*, 469 U.S. 412, 429 (1985).

AFFIRMED.