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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WALTER DEAN ERNEST,

Petitioner - Appellant,

v.

DAVID L. RUNNELS,

Respondent - Appellee.

No. 07-17199

D.C. No. CV-05-02843-VRW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Vaughn R. Walker, Chief Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

California state prisoner Walter Dean Ernest appeals pro se from the district court's denial of his 28 U.S.C. § 2254 habeas corpus petition. We have jurisdiction under 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).

Ernest contends that the trial court violated his constitutional rights when it excluded evidence that the woman he was convicted of raping had been arrested three years earlier for prostitution, and that she had been terminated from her job. Because the excluded evidence he cites was not particularly probative or reliable, its exclusion by the trial court did not violate Ernest's right to due process. *See Christian v. Frank*, 595 F.3d 1076-1085-86 (9th Cir. 2010); *cf. Chia v. Cambra*, 360 F.3d 997, 1004 (9th Cir. 2004). Accordingly, the California Court of Appeal's rejection of Ernest's claims was neither contrary to, nor an unreasonable application of, clearly established Supreme Court law. *See* 28 U.S.C. § 2254(d)(1).

Moreover, as the district court determined, any errors did not have a substantial and injurious effect on the jury's verdict in light of the overwhelming evidence of Ernest's guilt. *See Brecht v. Abrahamson*, 507 U.S. 619, 637 (1993).

AFFIRMED.