

JUL 22 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LARRY DIXON,

Petitioner - Appellant,

v.

D. L. RUNNELS, Warden,

Respondent - Appellee.

No. 08-17110

D.C. No. 4:04-cv-03038-CW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Claudia Wilken, District Judge, Presiding

Submitted June 29, 2010**

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

California state prisoner Larry Dixon appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas 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).

Dixon contends that his due process rights were violated under *Brady v. Maryland*, 373 U.S. 83 (1963), when the prosecutor failed to disclose the extent of a favorable arrangement it made with a key prosecution witness. The state court determined that the existence of such an arrangement, beyond what was disclosed, was speculative. This was neither an unreasonable application of clearly established federal law, as determined by the United States Supreme Court, nor an unreasonable determination of the facts. *See* 28 U.S.C. § 2254(d); *see also Philips v. Woodford*, 267 F.3d 966, 987 (9th Cir. 2001).

We further reject Dixon's request that this case be remanded for an evidentiary hearing concerning this claim. *See Philips*, 267 F.3d at 987.

AFFIRMED.