

SEP 03 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOHN H. ALCALA,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>DARRELL G. ADAMS, Warden,</p> <p>Respondent - Appellee.</p>

No. 08-56060

D.C. No. 2:06-cv-04003-JSL-PLA

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted September 1, 2010**
Pasadena, California

Before: O’SCANNLAIN, FISHER and GOULD, Circuit Judges.

A California state court jury convicted John H. Alcala of three counts of assault with a semi-automatic firearm and one count of possession of a firearm by a

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Circuit Rule 36-3.

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

felon. Alcala appeals the district court's denial of his petition for a writ of habeas corpus.

We agree with the district court's conclusion that the California Court of Appeal did not apply harmless-error review in an objectively unreasonable manner when it held that, even if Alcala's Confrontation Clause rights were violated, the error was harmless. *See Mitchell v. Esparza*, 540 U.S. 12, 18 (2003) (per curiam); *Slovik v. Yates*, 556 F.3d 747, 755 (9th Cir. 2009). The admitted statements only weakly implicated Alcala and were cumulative of other evidence properly admitted, including the 911 phone call made by Laura Chavez, the testimony of Barbara Aguilar, and the shell casing found on the ground by Officer Langton.

AFFIRMED.