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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LARRY MANUEL LECHUGA,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>D. K. SISTO and JOHN W. HAVILAND,</p> <p>Defendants - Appellees.</p>
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No. 10-15627

D.C. No. 2:07-cv-00487-JAM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted February 15, 2011**

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

California state prisoner Larry Manuel Lechuga appeals pro se 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).

Lechuga contends that the state court excluded evidence in violation of his constitutional rights. However, in light of the unreliability of the evidence, Lechuga has failed to demonstrate that the state court's decision was contrary to, or an unreasonable application of, Supreme Court law. *See* 28 U.S.C. § 2254(d); *see also Holmes v. South Carolina*, 547 U.S. 319, 326 (2006) (“well-established rules of evidence permit trial judges to exclude evidence if its probative value is outweighed by certain other factors such as unfair prejudice, confusion of the issues, or potential to mislead the jury”); *Chia v. Cambra*, 360 F.3d 997, 1003 (9th Cir. 2004) (applying “a balancing test to determine whether the exclusion of evidence in the trial court violated petitioner’s due process rights, weighing the importance of the evidence against the state’s interest in exclusion”).

AFFIRMED.