

OCT 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE ANDREW NAVA,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>MICHAEL KNOWLES, Warden,</p> <p>Respondent - Appellee.</p>

No. 08-55304

D.C. No. 5:07-cv-00096-PA

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

California prisoner Jose Andrew Nava 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. Appellant. P. 34(a)(2).

Nava contends that the evidence introduced at his trial was insufficient to support the jury's true finding on a criminal street gang enhancement. The record reflects that the California appellate court's rejection of this claim was not contrary to, or an unreasonable application of, federal law; nor was it based on an unreasonable determination of the facts. *See* 28 U.S.C. § 2254(d); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Gardeley*, 14 Cal. 4th 605, 624 n.10 (1996).

We construe Nava's additional arguments as a motion to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.