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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHANCELLOR WADE, Petitioner - Appellant, v. M. C. KRAMER, Respondent - Appellee.	No. 11-16248 D.C. No. 2:08-cv-00456-MCE MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

California state prisoner Chancellor Wade 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.

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* 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).

Wade contends that his constitutional rights were violated under *Batson v. Kentucky*, 476 U.S. 79 (1986), because the prosecutor's race-neutral justifications for striking two African-American jurors were pretextual. The California Court of Appeal's determination that there was no *Batson* violation was not an unreasonable application of clearly established federal law. *See Harrington v. Richter*, 131 S. Ct. 770, 785 (2011) (distinguishing an "incorrect" from an "unreasonable" application of federal law under AEDPA). The state court's decision was also not based on an unreasonable determination of the facts in the light of the record before the court, *see* 28 U.S.C. § 2254(d); *Felkner v. Jackson*, 131 S. Ct. 1305, 1307 (2011) ("On federal habeas review, AEDPA imposes a highly deferential standard for evaluating state-court rulings and demands that state-court decisions be given the benefit of the doubt.") (internal citations omitted). The district court properly denied relief because Wade did not present clear and convincing evidence rebutting the presumption that the trial court's factual findings are correct. *See* 28 U.S.C. § 2254(e)(1); *Miller-El v. Dretke*, 545 U.S. 231, 240 (2005).

AFFIRMED.