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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DON CARLOS BROWN,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>KENNETH CLARK, Warden,</p> <p>Respondent - Appellee.</p>

No. 11-56158

D.C. No. 2:08-cv-05567-VBF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Valerie Baker Fairbank, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

California state prisoner Don Carlos Brown 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.

Brown contends that the trial court's decision to allow a gang expert to

* 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).

testify that he had heard that Brown had been beaten up by a rival gang member a month before the shooting violated *Crawford v. Washington*, 541 U.S. 36 (2004). We agree with the district court that Brown is not entitled to federal habeas relief because any error in admitting the challenged testimony was harmless. *See Jackson v. Brown*, 513 F.3d 1057, 1084-85 (9th Cir. 2008) (Confrontation Clause violation does not support federal habeas relief absent substantial and injurious effect on the jury's verdict.).

We construe Brown'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); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.