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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NOT FOR PUBLICATION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.