

AUG 07 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LOMEL ANTOINE HAMILTON,

Petitioner - Appellant,

v.

**L. S. MCEWEN, Warden of Kern
Valley State Prison,**

Respondent - Appellee.

No. 09-56814

D.C. No. 2:09-cv-04960-JFW-CT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Argued and Submitted July 13, 2012
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **REINHARDT** and **WATFORD**, Circuit
Judges.

Lomel Hamilton claims that officers violated his Miranda rights and that the
state court therefore erred in admitting his confession at trial. See Miranda v.

Arizona, 384 U.S. 436, 444 (1966).

* This disposition isn't appropriate for publication and isn't precedent
except as provided by 9th Cir. R. 36-3.

Relying on Oregon v. Bradshaw, 462 U.S. 1039 (1983), and Edwards v. Arizona, 451 U.S. 477 (1981), the state court of appeal concluded that Hamilton initiated the phone call during which he confessed out of a desire to have a generalized discussion about the investigation and that he knowingly and intelligently waived his previously invoked right to have counsel present during police interrogation. Neither of those determinations represents “a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.” 28 U.S.C. § 2254(d)(1). As a result, we are bound by the state court of appeal’s finding of waiver.

Since Hamilton waived his right to counsel, the trial court didn’t err in admitting his confession into evidence.

AFFIRMED.