

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 11 2014

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

ISAIAH HENDERSON,

Petitioner - Appellant,

v.

G. D. LEWIS, Warden,

Respondent - Appellee.

No. 11-56932

D.C. No. 2:10-cv-10073-PSG-
RNB

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted July 9, 2014**
Pasadena, California

Before: SILVERMAN, TALLMAN, and RAWLINSON, Circuit Judges.

Isaiah Henderson appeals from the district court's denial of his 28 U.S.C. § 2254 petition for a writ of habeas corpus. Henderson argues that he was deprived of a fair and impartial jury when the state trial court denied his motion to dismiss

* 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).

the jury panel and declined to conduct further specific questioning of the panel after one prospective juror, Juror Number 17, stated that he had seen the defendants in his community and would have safety concerns if he served on the case. We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

Our review is governed by the Antiterrorism and Effective Death Penalty Act of 1996, which prescribes a highly deferential standard preventing a federal court from granting relief to a person in custody pursuant to a state court judgment “with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim – (1) resulted in 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; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d).

The California Court of Appeal’s September 30, 2009 denial of Henderson’s claim was not contrary to or an unreasonable application of clearly established federal law, and the state court did not unreasonably determine the facts. To the contrary, the Court of Appeal appropriately recognized the “broad discretion” of

the trial court to ensure the empanelment of an impartial jury, *see Frazier v. United States*, 335 U.S. 497, 511 (1948), and its factual determination that Juror Number 17's remarks were unlikely to have tainted the panel was reasonable and supported by the record, *see Taylor v. Maddox*, 366 F.3d 992, 1000 (9th Cir. 2004).

AFFIRMED.