

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 15 2022

FOR THE NINTH CIRCUIT

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

DANIEL ALEXANDER RODRIGUEZ,

No. 21-17101

Petitioner-Appellant,

D.C. No. 2:19-cv-02092-JJT

v.

MEMORANDUM*

STEPHEN MORRIS; ATTORNEY
GENERAL FOR THE STATE OF
ARIZONA,

Respondents-Appellees.

Appeal from the United States District Court
for the District of Arizona
John J. Tuchi, District Judge, Presiding

Submitted December 8, 2022**

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Arizona state prisoner Daniel Alexander Rodriguez appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition for a writ of habeas corpus challenging his prison disciplinary proceedings. We have jurisdiction under

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

28 U.S.C. § 2253. We review de novo, *see Lopez v. Schriro*, 491 F.3d 1029, 1036 (9th Cir. 2007), and we affirm.

Rodriguez contends that his procedural due process rights were violated when he was denied the opportunity to present a witness statement from the injured officer prepared for his cellmate’s disciplinary proceeding. The Arizona Court of Appeals rejected this claim on the basis that Rodriguez could not show prejudice from the exclusion of the witness statement. The state court’s conclusion was not an unreasonable application of *Wolff v. McDonnell*, 418 U.S. 539, 566 (1974) (discussing inmates’ procedural due process right to call witnesses and present documentary evidence in prison disciplinary proceedings), nor an unreasonable determination of the facts based on the evidence presented. *See* 28 U.S.C. § 2254(d). The record shows there is “some evidence” that numerous inmates—including Rodriguez—committed the offense and, therefore, the witness statement would not have exculpated him. *See Superintendent v. Hill*, 472 U.S. 445, 455 (1985) (“We hold that the requirements of due process are satisfied if some evidence supports the decision by the prison disciplinary board to revoke good time credits.”).

AFFIRMED.