

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 24 2015

FOR THE NINTH CIRCUIT

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

TAMEKCA WALKER,

Petitioner - Appellant,

v.

RON DAVIS,

Respondent - Appellee.

No. 14-15342

D.C. No. 2:12-cv-01882-GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Gregory G. Hollows, Magistrate Judge, Presiding

Argued and Submitted September 17, 2015
San Francisco, California

Before: CALLAHAN, CHRISTEN, and FRIEDLAND, Circuit Judges.

Tamekca Walker appeals the district court's denial of her 28 U.S.C. § 2254 habeas petition. We have jurisdiction under § 2253, and we affirm.¹

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

¹ Because the parties are familiar with the facts we do not recount them here.

Walker contends the introduction at trial of potentially irrelevant and prejudicial autopsy photographs of her foster daughter violated her due process rights. Walker's petition is governed by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") and cannot be granted unless the state court's adjudication was: (1) "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States"; or (2) "based on an unreasonable determination of the facts." § 2254(d). Walker argues that the state court's decision was contrary to clearly established Supreme Court law. We are bound, however, by the holding in *Holley v. Yarborough* that the Supreme court "has not yet made a clear ruling that admission of irrelevant or overtly prejudicial evidence constitutes a due process violation sufficient to warrant issuance of the writ." 568 F.3d 1091, 1101 (9th Cir. 2009). We cannot say that the state court's decision to admit potentially irrelevant and prejudicial autopsy photographs over Walker's objection was contrary to clearly established federal law. Walker's petition must be denied.

AFFIRMED.