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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FREDDY ANGEL TRUJILLO,

Petitioner-Appellant,

v.

RAYMOND MADDEN, Warden,

Respondent-Appellee.

No. 19-55262

D.C. No.

2:17-cv-07188-ODW-JDE

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Submitted April 12, 2021**
Pasadena, California

Before: M. SMITH and IKUTA, Circuit Judges, and VRATIL,*** District Judge.

* 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).

*** The Honorable Kathryn H. Vratil, United States District Judge for the District of Kansas, sitting by designation.

California prisoner Freddy Angel Trujillo appeals the district court's denial of his habeas petition under 28 U.S.C. § 2254. We have jurisdiction pursuant to § 2253(a) and affirm.

Like the district court, we decline to decide whether Trujillo's claim is procedurally barred because his "petition clearly fails on the merits." *Flournoy v. Small*, 681 F.3d 1000, 1004 n.1 (9th Cir. 2012). Applying de novo review, *see Wilson v. Sellers*, 138 S. Ct. 1188, 1192 (2018), the state trial court did not violate Trujillo's due process rights when it refused to sever the four counts because the prosecution supported each conviction with strong evidence, and did not join a relatively weak case with a stronger one, *see Sandoval v. Calderon*, 241 F.3d 765, 772 (9th Cir. 2000). Therefore, Trujillo has not shown that any "impermissible joinder had a substantial and injurious effect or influence in determining the jury's verdict." *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004) (quoting *Sandoval*, 241 F.3d at 772).

AFFIRMED.