

**OCT 08 2004**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CECIL LARRY WILLIAMS,

Petitioner - Appellant,

v.

DONALD L. HELLING, et al.,

Respondent - Appellee.

No. 03-16470

D.C. No. CV-00-00465-ECR/  
VPC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Edward C. Reed, District Judge, Presiding

Submitted September 17, 2004\*\*  
San Francisco, California

Before: OAKES,\*\*\* KLEINFELD, and CALLAHAN, Circuit Judges.

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable James L. Oakes, Senior Circuit Judge of the United States Court of Appeals for the Second Circuit, sitting by designation.

We affirm the district court’s denial of Williams’s petition for habeas corpus.

The state court’s ruling regarding the admonition to Dysart was not contrary to, nor an unreasonable application of, clearly established Supreme Court law.<sup>1</sup> In Webb v. Texas,<sup>2</sup> the Supreme Court case at issue, the admonition “effectively drove the defendant’s only witness off the stand.”<sup>3</sup> This case differs in that the admonition occurred during a preliminary hearing rather than at trial, the witness was a prosecution rather than a defense witness, and in that he was not driven off the stand, but testified and remained available for cross examination.

The state court’s ruling on ineffective assistance also was not contrary to, nor an unreasonable application of, clearly established Supreme Court law. Regardless of whether trial counsel was deficient, which we do not intimate,

---

<sup>1</sup> 28 U.S.C. § 2254(d)(1).

<sup>2</sup> Webb v. Texas, 409 U.S. 95(1972).

<sup>3</sup> Id. at 98.

Williams has not demonstrated prejudice.<sup>4</sup> There is nothing to indicate that anything would have changed even had counsel objected to the justice's remark.

**AFFIRM.**

---

<sup>4</sup> See Strickland v. Washington, 466 U.S. 668 (1984).