

[REDACTED]

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OPINIONS

**A FEDERAL HABEAS COURT MAY CONSIDER THE ENTIRE TRIAL COURT
RECORD ON § 2254(d)(2) REVIEW, INCLUDING PORTIONS THAT WERE
NEVER BEFORE THE STATE APPELLATE COURTS**

McDaniels v. Kirkland & Jenkins v. Evans - Filed Dec. 24, 2015, in 09-17339 & 11-15030 [2015 WL 9461515; 2015 U.S.App.Lexis 22600].

Facts: McDaniels and Jenkins were each convicted of murder in California. On federal habeas, they repeated their claims that the prosecutor had violated *Batson* during jury selection. Certain voir dire records not considered by the California Court of Appeal were received by the district court in Jenkins' case.

Held: (1.) No clearly established Supreme Court precedent in 2003 required state courts to sua sponte conduct comparative analysis. (2.) A federal court may consider "the entire state-court record, including evidence that was presented only to the trial court" when determining whether California Court of Appeal decisions are based on an "unreasonable determination of the facts" under 28 U.S.C. § 2254(d)(2). (3.) Case remanded for original three-judge Ninth Circuit panel to consider additional voir dire records and consider an unrelated IAC claim not in original COA.

ALAMEDA COUNTY - MURDER - REMANDED TO THREE-JUDGE PANEL
SF2011203737 - [REDACTED]

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