

DOCKETED**ORIGINAL****FILED**

JUL 20 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****TIMOTHY C. GANTT,**

Petitioner - Appellee,

v.

A.K. SCRIBNER, Warden,

Respondent - Appellant.

No. 06-55678

D.C. No. CV-98-01487-DSF

MEMORANDUM*Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, PresidingArgued and Submitted July 13, 2007
Pasadena, CaliforniaBefore: **KOZINSKI** and **TALLMAN**, Circuit Judges, and **SANDOVAL**,
District Judge.

1. The district court didn't clearly err in finding that the state failed to disclose the disputed evidence at a time when it would have been useful, as

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

** The Honorable Brian E. Sandoval, United States District Judge for the District of Nevada, sitting by designation.

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required by Brady v. Maryland, 373 U.S. 83 (1963). See Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985).

2. Respondent doesn't offer any substantial reason for departing from the law of the case and reversing Gantt v. Roe, 389 F.3d 908 (9th Cir. 2004). See Milgard Tempering, Inc. v. Selas Corp. of America, 902 F.2d 703, 715 (9th Cir. 1990).

AFFIRMED.