

OCT 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LERROY R. DEHAVEN,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JAMES E. TILTON, Secretary,</p> <p>Respondent - Appellee.</p>

No. 07-56290

D.C. No. CV-06-00602-BEN

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

California state prisoner LeRoy R. DeHaven appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 28 U.S.C. § 2253,¹ and we affirm.

DeHaven challenges the Board's 2004 decision to deny him parole. The state court did not unreasonably conclude that some evidence supports the Board's decision. *See* 28 U.S.C. § 2254(d); *see also Hayward v. Marshall*, 603 F.3d 546, 562-63, 569 (9th Cir. 2010) (en banc).

AFFIRMED.

¹ We certify on our own motion the issue of whether the California Board of Prison Terms' ("Board") 2004 decision to deny DeHaven parole was supported by some evidence. We decline to issue a certificate of appealability as to DeHaven's remaining claims. *See* 28 U.S.C. § 2253(c)(2).