

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WILLIAM WILLIAMS,)	NO. CV 10-01378-SS
)	
Petitioner,)	
)	
v.)	MEMORANDUM DECISION AND ORDER
)	
TERRI GONZALEZ, Acting Warden,)	
)	
Respondent.)	
_____)	

I.
INTRODUCTION

On February 24, 2010, William Williams ("Petitioner"), a California state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus by a Person in State Custody (the "Petition") pursuant to 28 U.S.C. § 2254. On June 14, 2010, Respondent¹ filed an Answer to the Petition (the "Answer"). Respondent lodged seven documents from

¹ Terri Gonzalez, Acting Warden of the California Men's Colony, where Petitioner is incarcerated, is substituted for her predecessor. See Fed. R. Civ. P. 25(d).

1 Petitioner's state proceedings. On July 6, 2010, Petitioner filed a
2 Traverse (the "Traverse"). The parties have consented to the
3 jurisdiction of the undersigned United States Magistrate Judge pursuant
4 to 28 U.S.C. § 636(c). For the reasons discussed below, the Petition
5 is DENIED and this action is DISMISSED WITH PREJUDICE.

6
7 **II.**

8 **PRIOR PROCEEDINGS**

9
10 On December 3, 1979, Petitioner pled guilty in the San Joaquin
11 County Superior Court to first degree murder in violation of California
12 Penal Code ("Penal Code") section 187. (Petition at 43).² On January
13 22, 1980, the trial court sentenced Petitioner to an indeterminate term
14 of twenty-five years to life in state prison. (Id. at 44).

15
16 On December 19, 2007, the Board of Parole Hearings (the "Board")
17 held a Subsequent Parole Consideration Hearing in which they denied
18 Petitioner parole. (Lodgment 7, Transcript of Subsequent Parole
19 Consideration Hearing ("Lodgment 7") at 1-68). On January 30, 2009,
20 Petitioner filed a petition for writ of habeas corpus in the San Joaquin
21 County Superior Court, which was denied on April 9, 2009, with a
22 reasoned opinion. (Lodgment 1, Petition for Writ of Habeas Corpus
23 ("Lodgment 1"); Lodgment 2, San Joaquin County Superior Court Order
24 ("Lodgment 2")). On June 17, 2009, Petitioner filed a petition for writ
25 of habeas corpus in the California Court of Appeal, which was denied on
26 June 18, 2009, without comment or citation to authority. (Lodgment 3,

27
28

² The Court refers to the pages of the Petition as if they were
consecutively paginated.

1 Petition for Writ of Habeas Corpus ("Lodgment 3"); Lodgment 4,
2 California Court of Appeal Order ("Lodgment 4")). On August 4, 2009,
3 Petitioner filed a petition for writ of habeas corpus in the California
4 Supreme Court, which was denied on December 23, 2009, without comment
5 or citation to authority. (Lodgment 5, Petition for Writ of Habeas
6 Corpus ("Lodgment 5"); Lodgment 6, California Supreme Court Order
7 ("Lodgment 6")). Petitioner filed the instant Petition on February 24,
8 2010.

9 **III.**

10 **FACTUAL BACKGROUND**

11
12 On December 19, 2007, the Board held a Subsequent Parole
13 Consideration Hearing with Presiding Commissioner Shelton and Deputy
14 Commissioner Mejia. (Lodgment 7 at 3). Petitioner was represented by
15 counsel at the hearing. (Id. at 4). During the hearing, Petitioner
16 answered questions from the commissioners. (Id. at 12-42). At the
17 close of the hearing, the San Joaquin County District Attorney's Office
18 opposed parole and a deputy district attorney presented argument to the
19 Board. (Id. at 43-45). Next, Petitioner's counsel presented argument
20 on Petitioner's behalf. (Id. at 46-53). After Petitioner counsel
21 presented argument, Petitioner spoke on his own behalf. (Id. at 53-55).
22 Finally, the victim's sister spoke to the Board in opposition of parole.
23 (Id. at 56-60).

24
25 After a recess for deliberations, the Board informed Petitioner of
26 their decision that he was "not suitable for parole and [he] would pose
27 an unreasonable risk of danger to society or a threat to public safety
28 if released from prison." (Lodgment 7 at 61). Presiding Commissioner

1 Shelton explained that the Board based its decision on Petitioner's
2 inability to understand what caused him to commit the underlying
3 offense, the "cruel and callous manner" in which Petitioner committed
4 the underlying offense, Petitioner's need to address his narcissism, and
5 the lack of letters to support Petitioner's parole plans. (Id. at 61-
6 68).

7
8 **IV.**

9 **PETITIONER'S CLAIM³**

10
11 In the Petition, Petitioner raises only one claim for federal
12 habeas relief. Petitioner contends that the Board's decision denying
13 parole was not supported by "some evidence" of current dangerousness.
14 (Petition at 5).

15
16 **V.**

17 **STANDARD OF REVIEW**

18
19 The Antiterrorism and Effective Death Penalty Act of 1996
20 ("AEDPA"), which effected amendments to the federal habeas statutes,
21 applies to the instant Petition because Petitioner filed it after
22 AEDPA's effective date of April 24, 1996. Lindh v. Murphy, 521 U.S.
23

24
25 ³ In connection with his claim, Petitioner requests an evidentiary
26 hearing. (See Petition at 39). However, because the Court finds the
27 current record sufficient to resolve Petitioner's claim, an evidentiary
28 hearing is unnecessary. See Campbell v. Wood, 18 F.3d 662, 679 (9th
Cir. 1994) ("An evidentiary hearing is not required on allegations that
are conclusory and wholly devoid of specifics. Nor is an evidentiary
hearing required on issues that can be resolved by reference to the
state court record." (internal quotation marks and citation omitted)).

1 320, 336, 117 S. Ct. 2059, 138 L. Ed. 2d 481 (1997). Under AEDPA, a
2 federal court may grant habeas relief if a state court adjudication:

3
4 (1) resulted in a decision that was contrary to, or
5 involved an unreasonable application of,
6 clearly established Federal law, as determined
7 by the Supreme Court of the United States; or

8
9 (2) resulted in a decision that was based on an
10 unreasonable determination of the facts in
11 light of the evidence presented in the State
12 court proceeding.

13
14 28 U.S.C. § 2254(d)(1) and (2).
15

16 "[A] decision by a state court is 'contrary to' [the] clearly
17 established law [of the Supreme Court] if it 'applies a rule that
18 contradicts the governing law set forth in [Supreme Court] cases.'" Frantz v. Hazey, 533 F.3d 724, 734 (9th Cir. 2008) (en banc) (quoting
19 Price v. Vincent, 538 U.S. 634, 640, 123 S. Ct. 1848, 155 L. Ed. 2d 877
20 (2003)). It is also "contrary to" clearly established Supreme Court
21 case law "if it applie[s] the controlling authority to a case involving
22 facts materially indistinguishable from those in a controlling case, but
23 nonetheless reaches a different result." Bruce v. Terhune, 376 F.3d
24 950, 953 (9th Cir. 2004) (citing Williams v. Taylor, 529 U.S. 362, 413,
25 120 S. Ct. 1495, 146 L. Ed. 2d 389 (2000)). "A decision involves an
26 'unreasonable application' of federal law if 'the state court identifies
27 the correct governing legal principle . . . but unreasonably applies
28

1 that principle to the facts of the prisoner's case.'" Id. (quoting
2 Williams, 529 U.S. at 413).

3
4 Pursuant to AEDPA's "unreasonable application" clause, "a federal
5 habeas court may not issue the writ simply because that court concludes
6 in its independent judgment that the state-court decision applied
7 [Supreme Court precedent] incorrectly. Rather, it is the habeas
8 applicant's burden to show that the state court applied [Supreme Court
9 precedent] to the facts of his case in an objectively unreasonable
10 manner." Woodford v. Visciotti, 537 U.S. 19, 24-25, 123 S. Ct. 357,
11 154 L. Ed. 2d 279 (2002) (per curiam) (citations omitted). This
12 standard requires more than a finding that the state court committed
13 "clear error." Lockyer v. Andrade, 538 U.S. 63, 75-76, 123 S. Ct. 1166,
14 155 L. Ed. 2d 144 (2003). Instead, the reviewing court must find that
15 the application of federal law was "objectively unreasonable" in order
16 to warrant habeas relief. Id. at 76. The Supreme Court has
17 characterized AEDPA's standard of review as a "highly deferential
18 standard for evaluating state-court rulings," Lindh, 521 U.S. at 334
19 n.7, and has opined that this standard "demands that state-court
20 decisions be given the benefit of the doubt." Visciotti, 537 U.S. at
21 24. "A state court's determination that a claim lacks merit precludes
22 federal habeas relief so long as fairminded jurists could disagree on
23 the correctness of the state court's decision." Harrington v. Richter,
24 ___ U.S. ___, 131 S. Ct. 770, 784, 178 L. Ed. 2d 624 (2011) (internal
25 quotation marks omitted).

26 \\

27 \\

1 AEDPA limits the scope of clearly established federal law to the
2 holdings of the United States Supreme Court as of the time of the state
3 court decision under review. Andrade, 538 U.S. at 71 (citing Williams,
4 529 U.S. at 412). Here, the applicable state court decision is the
5 opinion of the San Joaquin County Superior Court on habeas review.
6 (Lodgment 2). The California Court of Appeal and the California Supreme
7 Court denied Petitioner's habeas petitions without comment or citation
8 to authority. (Lodgments 4 & 6). In these circumstances, a district
9 court "looks through" the unexplained decisions to the last reasoned
10 decision as the basis for the state court's judgment. Shackleford v.
11 Hubbard, 234 F.3d 1072, 1079 n.2 (9th Cir. 2000) (citing Ylst v.
12 Nunnemaker, 501 U.S. 797, 803-04, 111 S. Ct. 2590, 115 L. Ed. 2d 706
13 (1991)). To the extent that Petitioner's federal habeas claims were not
14 addressed in any reasoned state court decision, however, this Court
15 conducts an independent review of the record. See Pirtle v. Morgan, 313
16 F.3d 1160, 1167 (9th Cir. 2002). In such circumstances, "the habeas
17 petitioner's burden still must be met by showing there was no reasonable
18 basis for the state court to deny relief." Richter, 131 S. Ct. at 784.

19
20 VI.

21 DISCUSSION

22
23 Petitioner Is Not Entitled To Habeas Relief On His Parole
24 Suitability Claim

25
26 In Petitioner's only claim for relief, Petitioner challenges the
27 Board's December 19, 2007 determination that he is unsuitable for
28 parole. (Petition at 5; Traverse 5-8). Specifically, Petitioner

1 contends that the Board's decision denying parole was not supported by
2 "some evidence" of current dangerousness. (Petition at 5). There is
3 no merit to this claim.
4

5 On habeas review, the San Joaquin County Superior Court rejected
6 Petitioner's claim in relevant part as follows:
7

8 Here, the Board plainly stated their concerns and why
9 they had such concerns. Petitioner's presentation did not
10 convince the Panel that he has overcome the characteristics
11 which led to the offense because his language and
12 understanding seem clinical.
13

14 Accordingly, there is some evidence which supports the
15 Board of Prison Hearings' decision. In re Rosenkrantz (2002)
16 29 C.4th 616, 657-658. In re Lawrence (2008) 44 C.4th 1181.
17

18 (Lodgment 2 at 3).
19

20 Petitioner's claim is now foreclosed by the Supreme Court's opinion
21 in Swarthout v. Cooke, __ U.S. __, 131 S. Ct. 859, 178 L. Ed. 2d 732
22 (2011) (per curiam). In Swarthout, the Supreme Court held that "[t]here
23 is no right under the Federal Constitution to be conditionally released
24 before the expiration of a valid sentence, and the States are under no
25 duty to offer parole to their prisoners." Swarthout, 131 S. Ct. at 862.
26 While the Supreme Court recognized that California law creates a liberty
27 interest in parole, the Court held that the Due Process Clause requires
28 only "minimal" procedures to vindicate that interest. Id.

1 Specifically, the Supreme Court held that a prisoner's state-law liberty
2 interest in parole is sufficiently protected under the Federal
3 Constitution as long as the prisoner is "allowed an opportunity to be
4 heard and [is] provided a statement of the reasons why parole [is]
5 denied." Id. (citing Greenholtz v. Inmates of Neb. Penal and Corr.
6 Complex, 442 U.S. 1, 16, 99, S. Ct. 2100, 60 L. Ed. 2d 668 (1979)); see
7 also Greenholtz, 442 U.S. at 16 ("The Nebraska procedure affords an
8 opportunity to be heard, and when parole is denied it informs the inmate
9 in what respects he falls short of qualifying for parole; this affords
10 the process that is due under these circumstances. The Constitution
11 does not require more.").

12
13 In Swarthout, the Supreme Court rejected the claims of two habeas
14 petitioners challenging their denials of parole because they "received
15 at least [the] amount of process" required by the Federal Constitution.
16 Swarthout, 131 S. Ct. at 862. Specifically, the petitioners "were
17 allowed to speak at their parole hearings and to contest evidence
18 against them, were afforded access to their records in advance, and were
19 notified as to the reasons why parole was denied." Id. Once a federal
20 habeas court has ensured that a petitioner received the amount of
21 process required by the Federal Constitution, the Supreme Court
22 explained that this is "the beginning and the end of the federal habeas
23 court's inquiry." Id.; see also id. at 863 ("The short of the matter
24 is that the responsibility for assuring that the constitutionally
25 adequate procedures governing California's parole system are properly
26 applied rests with California courts, and is no part of the [federal
27 courts'] business.").

28 \\

1 Here, Petitioner received more than the "minimal" procedures
2 required by the Federal Constitution. Swarthout, 131 S. Ct. at 862.
3 As set forth above, see supra Part III, the Board held a hearing
4 regarding Petitioner's parole status. (Lodgment 7 at 1-68). Petitioner
5 was represented by counsel at the hearing who presented argument on
6 Petitioner's behalf. (Id. at 46-53). Petitioner answered questions
7 from the commissioners, (id. at 12-42), and presented a closing argument
8 on his own behalf. (Id. at 53-55).

9
10 After a recess for deliberations, the Board informed Petitioner of
11 their decision that he was "not suitable for parole and [he] would pose
12 an unreasonable risk of danger to society or a threat to public safety
13 if released from prison." (Lodgment 7 at 61). Presiding Commissioner
14 Shelton explained that the Board based its decision on Petitioner's
15 inability to understand what caused him to commit the underlying
16 offense, the "cruel and callous manner" in which Petitioner committed
17 the underlying offense, Petitioner's need to address his narcissism, and
18 the lack of letters to support Petitioner's parole plans. (Id. at
19 61-68). Thus, the Board gave Petitioner an opportunity to be heard and
20 provided him with a reasoned decision.

21
22 Because Petitioner has received "at least [the] amount of process"
23 required by the Federal Constitution, this is "the beginning and the end
24 of the [Court's] inquiry." Swarthout, 131 S. Ct. at 862. Thus, the
25 Court concludes that the state courts' denial of Petitioner's claim was
26 not contrary to nor did it involve an unreasonable application of
27 clearly established federal law as determined by the United States
28 Supreme Court, nor was it an unreasonable determination of the facts.

1 See 28 U.S.C. § 2254(d). Accordingly, Petitioner is not entitled to
2 habeas relief on this claim.

3
4 **VII.**

5 **CONCLUSION**

6
7 IT IS ORDERED that: (1) the Petition is DENIED; and (2) Judgment
8 shall be entered dismissing this action with prejudice.

9
10 DATED: February 17, 2011

11 /S/

12 _____
13 SUZANNE H. SEGAL
14 UNITED STATES MAGISTRATE JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28