

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LUIS MEJIA,  
Petitioner,  
v.  
J. T. OCHOA, Warden,  
Respondent. } Case No. CV 11-4481 SVW (JCG)  
}  
}  
}  
}  
}  
}  
**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE AND  
DENYING CERTIFICATE OF  
APPEALABILITY**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the records on file, the Report and Recommendation of the United States Magistrate Judge, and Petitioner’s Objections. Further, the Court has engaged in a *de novo* review of those portions of the Report and Recommendation to which Petitioner has objected. *See* 28 U.S.C. § 636(b)(1)(C).

Petitioner's Objections essentially rehash the arguments made in the Petition and are without merit for the reasons stated in the Report and Recommendation. His claim that the Board of Parole Hearings' adverse decision violated substantive due process is foreclosed by *Swarthout v. Cooke*, in which the Supreme Court explained that when a federal habeas court is reviewing a California parole

1 decision, “the only federal right at issue is procedural.” 131 S.Ct. 859, 862 (2011).  
2 *See also Roberts v. Hartley*, 640 F.3d 1042, 1046 (9th Cir. 2011) (“[T]here is no  
3 substantive due process right created by California’s parole scheme. If the state  
4 affords the procedural protections required by *Greenholtz [v. Inmates of Nebraska  
5 Penal and Correctional Complex*, 442 U.S. 1 (1979)] and *Cooke*, that is the end of  
6 the matter for purposes of the Due Process Clause.”). Petitioner does not contend  
7 that he was denied the requisite procedural protections. Thus, because it is clear  
8 from the Petition and attachments that Petitioner is not entitled to relief, summary  
9 dismissal is appropriate. *See* Rules Governing § 2254 Cases, Rule 4, 28 U.S.C.  
10 foll. § 2254.

11 Accordingly, IT IS ORDERED THAT:

12 1. The Report and Recommendation is approved and adopted.  
13 2. Judgment be entered dismissing this action with prejudice.  
14 3. The Clerk serve copies of this Order and the Judgment on the parties.

15 Additionally, for the reasons stated in the Report and Recommendation, the  
16 Court finds that Petitioner has not made a substantial showing of the denial of a  
17 constitutional right. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *Miller-El v.  
18 Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate  
19 of appealability.

20  
21  
22 DATED: April 24, 2012  
23



24 HON. STEPHEN V. WILSON  
25 UNITED STATES DISTRICT JUDGE  
26  
27  
28