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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION**

DEAN ANCHOR,	)	Case No. 2:06-CV-01909-MMS
	)	
Petitioner,	)	ORDER
v.	)	
	)	
ROSANNE CAMPBELL, Warden,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Dean Anchor, a California state prisoner, seeks a writ of habeas corpus under 28 U.S.C. § 2254 disputing the state court’s denial of habeas relief on his challenge to the May 6, 2005 decision of the California Board of Parole Hearings (“BPH”) denying him parole. Petitioner alleges the denial of parole violated his rights under the Fourteenth Amendment of the Constitution. This court stayed proceedings pending the Ninth Circuit’s decision in *Hayward v. Marshall*, 603 F.3d 546 (9th Cir. 2010) (en banc) and has received supplemental memoranda on its impact on this case. Having considered the arguments of the parties, the Court DENIES the petition for the reasons stated below.

**BACKGROUND**

Anchor is serving a sentence of 15 years to life for second degree murder.

1 In 1985, Anchor murdered a 30-year-old “outcall masseuse” in his house. Anchor,  
2 who still claims that he has no memory of the murder, struck the woman 23 times  
3 with a blunt object. The woman was found unclothed from the waist up and  
4 wearing only underwear.

5 The BPH denied parole at Anchor’s May 2005 hearing. The Board focused  
6 on the brutal nature of the crime, noting that Anchor had hit his victim numerous  
7 times with no apparent motive. The BPH also stated that Anchor’s past history of  
8 violence and substance abuse, along with his unstable social history, further  
9 suggested he was not suitable for parole.

10 Anchor filed a petition for a writ of habeas corpus in California Superior  
11 Court. The court denied the petition, stating that Anchor had failed to “establish a  
12 prima facie case.” The state court of appeal and California Supreme Court denied  
13 review.

14 Anchor filed a timely federal habeas petition.

## 15 **DISCUSSION**

16 Under California law, prisoners serving indeterminate life sentences become  
17 eligible for parole after serving a minimum term of confinement. *In re*  
18 *Dannenberg*, 104 P.3d 783, 785-86 (Cal. 2005). California regulations state that “a  
19 life prisoner shall be found unsuitable for and denied parole if in the judgment of  
20 the panel the prisoner will pose an unreasonable risk of danger to society if  
21 released from prison.” Cal. Code Regs. tit. 15, § 2402(a). In making this  
22 suitability determination, the BPH looks to factors such as the nature of the  
23 commitment offense, the prisoner’s record of violence, social history, behavior in  
24 prison, and any other information relevant to whether the prisoner poses an  
25 unreasonable risk to society. *See* Cal. Code Regs. tit. 15 § 2402(b)-(d).

26 If the prisoner files a state habeas petition, the state court reviews the  
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1 F.3d 1206, 1214 (9th Cir. 2010). The BPH also pointed to the Anchor’s escalating  
2 pattern of violence prior to the murder and history of substance abuse. These  
3 factors also provided “some evidence” of Anchor’s unsuitability.

4 Anchor’s criminal history shows that he was becoming progressively more  
5 violent prior to the murder. In 1976, Petitioner got into a fight at a party and then  
6 later destroyed the car of his combatant. In 1979, Petitioner beat up his girlfriend’s  
7 six year old daughter, giving her a black eye and a bloody nose. As the Superior  
8 Court also found, this was a particularly senseless murder with no apparent motive.  
9 Anchor cannot even recall why he did it because he was on drugs at the time. He  
10 admits to abusing drugs, including alcohol, cocaine, and heroin, at various points  
11 in his life. The BPH was therefore entitled to rely on Anchor’s prior violent  
12 history, drug use, and lack of motive in denying him parole because all are  
13 supported by the record. Cal. Code Regs. tit. 15, § 2402(c)(1)(E), (2).

14 The record also provides support for the determination that Anchor has not  
15 sufficiently participated in prison self-help programs on substance abuse and anger  
16 management. While he has maintained a relationship with his mother who he said  
17 provided a stable upbringing, and Anchor’s ex-wife wrote a letter to the BPH  
18 supporting his parole, his social history, coupled with the circumstances  
19 surrounding the crime and Anchor’s history of drug use and violence provides  
20 more than ample support for the denial of parole on the basis of Anchor’s unstable  
21 and violent history.

22 Petitioner also raises a claim challenging California’s parole procedures,  
23 focusing on the Governor’s supposed policy of denying parole to all murderers.  
24 Petitioner, however, failed to raise that claim before the California courts and it is  
25 therefore unexhausted. *See Peterson v. Lampert*, 319 F.3d 1153, 1155-57 (9th Cir.  
26 2003) (en banc) (finding that a claim is unexhausted if it has not been “fairly  
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1 presented” to the state court). It would moreover be pointless to permit Anchor to  
2 return to state court because this claim is procedurally barred. *See Johnson v.*  
3 *Lewis*, 929 F.2d 460, 464 (9th Cir. 1991). Under California law, “a defendant is  
4 not permitted to try out his contentions piecemeal by successive proceedings  
5 attacking the validity of the judgment against him.” *In re Clark*, 855 P.2d 729, 740  
6 (Cal. 1993). Anchor has provided no justification for his failure to raise this claim  
7 in his state habeas petition so a California court would reject this claim if Anchor  
8 returned to state court. In any event, this claim is without merit. States have  
9 “flexibility in deciding what procedures are needed in the context of postconviction  
10 relief,” and California’s procedures are consistent with the requirements of federal  
11 law. *See Hayward*, 603 F.3d at 563 (citation omitted).

## 12 CONCLUSION

13 For the above reasons, the petition for a writ of habeas corpus is DENIED.  
14 A certificate of appealability is also DENIED because Petitioner has failed to show  
15 his claims are “debatable among reasonable jurists.” *See Hayward*, 603 F.3d at  
16 555.

17 DATED: September 8, 2010

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19 */s/ Mary M. Schroeder*  
20 MARY M. SCHROEDER,  
21 United States Circuit Judge  
22 Sitting by designation  
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