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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFRY IAN COOK,

Petitioner,

No. CIV S-10-2355 JAM GGH P

vs.

J.W. HAVILAND,

Respondent.

ORDER

_____ /

Petitioner has requested an evidentiary hearing to determine whether the Board’s 2008 decision finding him unsuitable for parole was based on “some evidence” of current dangerousness. Ordinarily, a federal habeas proceeding is decided on the complete state-court record and a federal evidentiary hearing is required only if the trier of fact in the state proceeding has not developed the relevant facts after a full hearing. Townsend v. Sain, 372 U.S. 293, 312-13, 319, 83 S.Ct. 745 (1963), overruled on other grounds by Keeny v. Tamayo-Keyes, 504 U.S. 1, 112 S.Ct. 1715 (1992), superseded in part by statute, 28 U.S.C. 2254(e)(2) (1996). It does not appear from the record that the California courts made any independent evidentiary findings, and review in this case is based upon the findings of the Board, which did hold a full hearing developing the facts. Petitioner has not identified any factual conflict that would require this court to hold an evidentiary hearing to resolve.

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Accordingly, IT IS HEREBY ORDERED that petitioner's December 21, 2010
motion for evidentiary hearing (Docket No. 14) is denied.

Dated: January 18, 2011

/s/ Gregory G. Hollows

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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