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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ARMANDO GARCIA,	No. 2:17-cv-1483-EFB P
12	Petitioner,	
13	V.	ORDER AND FINDINGS AND
14	E. ARNOLD, Warden,	RECOMMENDATIONS
15	Respondent.	
16		
17	Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to	
18	28 U.S.C. § 2254. ¹ He has paid the filing fee. Petitioner is serving an indeterminate life sentence	
19	and claims that the Board of Parole Hearings lacked sufficient evidence to deny him parole,	
20	thereby depriving him of a liberty interest without due process. See ECF No. 1.	
21	Under Rule 4 of the Rules Governing Section 2254 Cases, the court is required to conduct	
22	a preliminary review of all petitions for writ of habeas corpus filed by state prisoners. The court	
23	must summarily dismiss a petition if it "plainly appears that the petitioner is not entitled to	
24	relief " The court has conducted the review required under Rule 4 and concludes that	
25	summary dismissal of the petition is required.	
26	/////	
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28	¹ This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).	

A prisoner's claim which, if successful, would not necessarily lead to immediate or speedier release falls outside the "core of habeas corpus" and must be pursued in an action brought pursuant to 42 U.S.C. § 1983. *Nettles v. Grounds*, 830 F.3d 922 (9th Cir. 2016). Here, success on petitioner's due process claim would not necessarily lead to his immediate or speedier release. At best, it could result in the advancement of his next parole suitably hearing. For this reason alone, petitioner is not entitled to relief.

7 In addition, the due process claim lacks merit. California's parole statutes give rise to a 8 liberty interest protected by the federal Due Process Clause. Swarthout v. Cooke, 562 U.S. 216, 9 219 (2011). In California, a prisoner is entitled to release on parole unless there is "some 10 evidence" of his current dangerousness. In re Lawrence, 44 Cal. 4th 1181, 1205-06, 1210 (2008); 11 In re Rosenkrantz, 29 Cal. 4th 616, 651-53 (2009). However, the U.S. Supreme Court has made 12 clear that "[n]o opinion of [theirs] supports converting California's 'some evidence' rule into a 13 substantive federal requirement." Swarthout, 131 S. Ct. at 220-21. The Court specifically 14 rejected the notion that there can be a valid claim under the Fourteenth Amendment for 15 insufficiency of evidence presented, or relied upon, at a parole proceeding. Id. at 220-22. Rather, 16 the protection afforded by the federal Due Process Clause to California parole decisions consists 17 solely of the "minimum" procedural requirements, specifically, "an opportunity to be heard and 18 ... a statement of the reasons why parole was denied." Id. at 220. Here, the transcript of 19 petitioner's parole suitability hearing, attached to the petition, reveals that petitioner was given 20 the opportunity to be heard and a statement of reasons as to why parole was denied. ECF No. 21 1:56-1-2:41. Thus, petitioner was afforded all the process he was due. 22 Accordingly, IT IS ORDERED that the Clerk is directed to randomly assign a United 23 States District Judge to this action. 24 Further, IT IS RECOMMENDED that: 25 1. Petitioner's application for writ of habeas corpus be summarily dismissed; 26 2. The Clerk be directed to close the case; and 27 ///// 28 ///// 2

1	3. The Clerk be directed to serve a copy of any order adopting these findings and	
2	recommendations, together with a copy of the petition filed in the instant case, on the	
3	Attorney General of the State of California.	
4	These findings and recommendations are submitted to the United States District Judge	
5	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days	
6	after being served with these findings and recommendations, any party may file written	
7	objections with the court and serve a copy on all parties. Such a document should be captioned	
8	"Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections	
9	shall be served and filed within fourteen days after service of the objections. Failure to file	
10	objections within the specified time may waive the right to appeal the District Court's order.	
11	Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir.	
12	1991). In his objections petitioner may address whether a certificate of appealability should issue	
13	in the event he files an appeal of the judgment in this case. See Rule 11, Rules Governing Section	
14	2254 Cases (the district court must issue or deny a certificate of appealability when it enters a	
15	final order adverse to the applicant).	
16	DATED: May 15, 2018.	
17	EDMUND F. BRENNAN	
18	UNITED STATES MAGISTRATE JUDGE	
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