

1 did not allege that he was denied these procedural requirements, and, thus, I determined that he
2 failed to state a claim. In his motion for reconsideration, he argues that the state of California has
3 created a liberty interest in parole and that the Supreme Court has never held that a parole board
4 may, as he alleges here, invent evidence of dangerousness and violate the Eighth Amendment’s
5 prohibition on cruel and unusual punishment. ECF No. 6 at 1-2. These arguments are
6 unpersuasive.

7 The state’s creation of a liberty interest in parole has limited effect on a federal habeas
8 court’s analysis. Where such an interest exists, federal law requires only that a petitioner be
9 provided fair procedures for its vindication. *See Cooke*, 562 U.S. at 220 (“When, however, a
10 State creates a liberty interest [in parole], the Due Process Clause requires fair procedures for its
11 vindication—and federal courts will review the application of those constitutionally required
12 procedures.”). Second, plaintiff’s contention that the parole board invented evidence of his
13 dangerousness lies outside the scope of federal habeas review. *Id.* at 221 (holding that a federal
14 habeas court should “not inquire into whether the constitutionally requisite procedures provided
15 by [the state] produced the result the evidence required . . .”). Finally, petitioner appears to argue
16 that his status as a youthful offender renders the denial of parole violative of the Eighth
17 Amendment. This contention finds no support in established federal law. To the contrary, “the
18 Supreme Court has never recognized an Eighth Amendment claim in the parole denial context.”
19 *Morrison v. Madden*, No. 5:22-cv-00925-MWF (MAA), 2023 U.S. Dist. LEXIS 235240, *12
20 (C.D. Cal. July 27, 2023).

21 In light of the foregoing, it is ORDERED that:

22 1. Petitioner’s motion for reconsideration, ECF No. 6, is DENIED.


23 2. Out of an abundance of caution, I will still allow petitioner to file an amended petition.

24 He must do so within thirty days of this order’s entry. If he fails to do so, I will recommend that
25 this action be dismissed.

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IT IS SO ORDERED.

Dated: August 29, 2024



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE