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

LELAND HAYNES,

Petitioner,

V.

DENYING PETITIONER'S MOTION FOR RECONSIDERATION AND DIRECTING PETITIONER TO FILE AN AMENDED COMPLAINT WITHIN THIRTY DAYS

Respondent.

ECF No. 6

On July 18, 2024, I found that the initial petition failed to state a cognizable claim and gave petitioner leave to amend within thirty days. ECF No. 5. Specifically, I found that petitioner's claim that he was wrongfully denied parole failed to present a federal habeas claim. *Id.* at 1-2. Rather than filing an amended petition, however, petitioner filed a motion for reconsideration, ECF No. 6, arguing that my legal analysis is incorrect and that his petition does, in fact, state a claim. For the reasons stated hereafter, I disagree and grant petitioner an additional thirty days to file an amended petition.

In my screening order, I noted that, with respect to a denial of parole, federal law demands only that a prisoner be afforded "an opportunity to be heard and [to be] provided a statement of the reasons why parole was denied." *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011). Petitioner

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

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

In light of the foregoing, it is ORDERED that:

- 1. Petitioner's motion for reconsideration, ECF No. 6, is DENIED.
- 2. Out of an abundance of caution, I will still allow petitioner to file an amended petition. He must do so within thirty days of this order's entry. If he fails to do so, I will recommend that this action be dismissed.

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2	IT IS SO ORDERED.
3	Dated: August 29, 2024
4	JEREMY D. PETERSON UNITED STATES MAGISTRATE JUDGE
5	UNITED STATES MAGISTRATE JUDGE
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