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9   IN THE UNITED STATES DISTRICT COURT

10   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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12   WILLIAM M. OBERPRILLER, C-80076,   )
)
13   Petitioner,   )   No. C 09-3693 CRB (PR)
)
14   vs.   )   ORDER DENYING
)   PETITION FOR A WRIT OF
15   C. NOLLS, Acting Warden,   )   HABEAS CORPUS
)
16   Respondent(s).   )
       _____)

17

18   Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2254

19   challenging the California Board of Parole Hearings' (BPH) March 4, 2008

20   decision to deny him parole. Petitioner specifically claims that the decision does

21   not comport with due process because it is not supported by some evidence

22   demonstrating that he poses a current unreasonable threat to the public.

23   In the context of parole, a prisoner subject to a parole statute similar to

24   California's receives adequate process when he is allowed an opportunity to be

25   heard and is provided with a statement of the reasons why parole was denied.

26   Swarthout v. Cooke, No. 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). The record

27   shows petitioner received at least this amount of process. The Constitution does

28   not require more. Id. at 5.

1   Whether BPH's decision was supported by some evidence of current

2   dangerousness is irrelevant in federal habeas. The Supreme Court has made clear

3   that "it is no federal concern . . . whether California's 'some evidence' rule of

4   judicial review (a procedure beyond what the Constitution demands) was

5   correctly applied." Id. at 6.

6   For the foregoing reasons, the petition for a writ of habeas corpus is

7   DENIED. And pursuant to Rule 11 of the Rules Governing Section 2254 Cases,

8   a certificate of appealability (COA) under 28 U.S.C. § 2253(c) is DENIED

9   because it cannot be said that "reasonable jurists would find the district court's

10 assessment of the constitutional claims debatable or wrong." Slack v. McDaniel,

11 529 U.S. 473, 484 (2000).

12   The clerk shall enter judgment in favor of respondent and close the file.

13 SO ORDERED.

14 DATED: Feb. 4, 2011

    CHARLES R. BREYER
15 United States District Judge

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