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7	IN THE UNITED STATES DISTRICT COURT
8	FOR THE NORTHERN DISTRICT OF CALIFORNIA
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10	ALEJANDRO M. LEE, H-91709,
11	Petitioner, No. C 11-1244 CRB (PR)
12	vs. () ORDER DISMISSING DETITION FOR A WRIT OF
13	R. GROUNDS, Warden,
14	Respondent(s). (Docket # 4)
15	)
16	Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2254
17	challenging the California Board of Parole Hearings' (BPH) September 29, 2009
18	decision to deny him parole. In a nutshell, petitioner claims that the BPH's
19	decision does not comport with due process because it is not supported by some
20	evidence demonstrating that he poses a current unreasonable threat to the public
21	Petitioner also seeks to proceed in forma pauperis (docket # 4), which
22	based solely on his affidavit of poverty, is granted.
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.

<u>Swarthout v. Cooke</u>, 131 S. Ct. 859, 862 (2011). The attachments to the petition show petitioner received at least this amount of process. The Constitution does not require more. <u>Id.</u>

1	Whether the BHP'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." <u>Id.</u> at 863.
6	For the foregoing reasons, the petition for a writ of habeas corpus is
7	DISMISSED. And pursuant to Rule 11 of the Rules Governing Section 2254
8	Cases, 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 accordance with this order and close the
13	file.
14	SO ORDERED.
15	DATED: <u>April 21, 2011</u> CHARLES R. BREYER
16	United States District Judge
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