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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL ANGELO WALKER,)	No. C 11-4997 JSW (PR)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
vs.)	
)	
R. GROUNDS, Warden,)	
)	
Respondent.)	
_____)	

INTRODUCTION

Petitioner, a prisoner of the State of California, currently incarcerated at the California Training Facility, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging a decision by the Board of Parole Hearings to deny him parole. This order dismisses the petition for failing to state a cognizable claim for federal habeas relief.

DISCUSSION

Petitioner claims that the denial of parole violated his right to due process because it was not supported by sufficient evidence. The United States Supreme Court has held that a California prisoner is entitled to only “minimal” procedural protections in connection with a parole suitability determination. *Swarthout v Cooke*, 131 S.Ct. 859, 863 (2011). The procedural protections to which the prisoner is entitled under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution are limited to an

1 opportunity to be heard and a statement of the reasons why parole was denied. *Id.* at
2 862. The transcript of the parole hearing shows that Petitioner received an opportunity
3 to be heard and a statement of the reasons parole was denied. The Constitution does not
4 require more. *Id.* The Court in *Swarthout* explained that no Supreme Court case
5 “supports converting California’s ‘some evidence’ rule into a substantive federal
6 requirement.” *Id.* It is simply irrelevant in federal habeas review “whether California’s
7 ‘some evidence’ rule of judicial review (a procedure beyond what the Constitution
8 demands) was correctly applied.” *Id.* at 863. In light of the Supreme Court’s
9 determination that due process does not require that there be any amount of evidence to
10 support the parole denial, Petitioner’s claim that the Board’s decision was not supported
11 by sufficient evidence fails to state a viable basis for federal habeas relief.

12 CONCLUSION

13 For the foregoing reasons, the petition for a writ of habeas corpus is DENIED.
14 Furthermore, Petitioner has failed to make a substantial showing that his claims
15 amounted to a denial of his constitutional rights and that a reasonable jurist would find
16 this Court’s denial of his claim debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473,
17 484 (2000). Consequently, no certificate of appealability is warranted in this case.

18 The Clerk shall enter judgment and close the file.

19 IT IS SO ORDERED.

20 DATED: November 2, 2011

21 
22 _____
23 JEFFREY S. WHITE
24 United States District Judge

25
26
27 UNITED STATES DISTRICT COURT

28 FOR THE

NORTHERN DISTRICT OF CALIFORNIA

MICHAEL ANGELO WALKER,

Case Number: CV11-04997 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

RANDY GROUNDS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 2, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Angelo Walker
D91638
Correctional Training Facility
P.O. Box 689
Soledad, CA 93960



Dated: November 2, 2011

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk