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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DANIEL RAMOS,
Petitioner, No. C 05-5181 PJH (PR)
vs. **ORDER DENYING
HABEAS PETITION**
BEN CURRY, Warden,
Respondent.

This is a habeas corpus case filed by a state prisoner pursuant to 28 U.S.C. 2254. The petition is directed to a 2004 denial of parole by the Board of Prison Terms.

BACKGROUND

Petitioner pleaded guilty to second degree murder and was sentenced to fifteen years to life in prison. Pet. at 2. In the original petition he listed four issues as grounds for relief. Respondent moved to dismiss on grounds the petition was mixed. The motion was granted and the petition was dismissed with leave to amend to elect among three alternatives. Petitioner elected to delete all but a sufficiency of the evidence claim.

DISCUSSION

The only issue remaining in this case is Ramos' claim that the parole denial was not supported by "some evidence." The United States Supreme Court has recently held that "[i]n the context of parole . . . the procedures required [by the due process clause] are minimal . . . an opportunity to be heard and . . . a statement of the reasons why parole was denied . . . [t]he Constitution . . . does not require more." *Swarthout v. Cooke*, No. 10-333, slip op. at 4-5 (January 24, 2011). That is, there is no due process requirement that a parole denial be supported by "some evidence." The petition therefore is without merit.

United States District Court
For the Northern District of California

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CONCLUSION

The petition for a writ of habeas corpus is **DENIED**. The clerk shall close the file.

IT IS SO ORDERED.

Dated: January 27, 2011.



PHYLLIS J. HAMILTON
United States District Judge