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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

SHAWN C. ALLS,

Petitioner,

No. C 09-1638 PJH (PR)

vs.

BEN CURRY, Warden,

Respondent.

**ORDER DENYING  
HABEAS PETITION AND  
DENYING CERTIFICATE  
OF APPEALABILITY**

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This is a habeas corpus case filed by a state prisoner pursuant to 28 U.S.C. 2254. As a result of the court's having earlier granted respondent's motion to, the only issue remaining is petitioner's second claim, that there was not "some evidence" to support the 2008 denial of parole.

The United States Supreme Court 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 for a writ of habeas corpus therefore is **DENIED**.

Given the clear controlling Supreme Court authority, a certificate of appealability ("COA") is **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (COA standard). Petitioner is advised that he may ask the court of appeals to issue a COA under Rule 22 of the Federal Rules of Appellate Procedure. See Rule 11(a), Rules Governing § 2254 Cases. The clerk shall close the file.

**IT IS SO ORDERED.**

Dated: January 31, 2011.



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PHYLLIS J. HAMILTON  
United States District Judge