

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

3  
4                    FREDERICK DAVIDSON,

No. C 09-02756 CW (PR)

5                                    Petitioner,

ORDER DENYING PETITION FOR A  
WRIT OF HABEAS CORPUS; DENYING  
CERTIFICATE OF APPEALABILITY

6                    v.

7                    RANDY GROUNDS, Acting Warden,

8                                    Respondent.  
9 \_\_\_\_\_/

10                    Petitioner seeks a writ of habeas corpus under 28 U.S.C.  
11 § 2254 challenging as a violation of his constitutional rights the  
12 2007 decision to deny him parole by the California Board of Parole  
13 Hearings (Board). Petitioner specifically claims that the decision  
14 does not comport with due process because it is not supported by  
15 some evidence demonstrating that he poses a current unreasonable  
16 threat to the public.

17                    A prisoner subject to California's parole statute receives  
18 adequate process when he is allowed an opportunity to be heard and  
19 is provided with a statement of the reasons why parole was denied.  
20 Swarthout v. Cooke, \_\_\_ U.S. \_\_\_, 131 S. Ct. 859, 862 (2011). The  
21 attachments to the petition show Petitioner received at least this  
22 amount of process. The Constitution does not require more. Id.

23                    Whether the Board's decision was supported by some evidence of  
24 current dangerousness is irrelevant on a petition for a writ of  
25 habeas corpus in federal court. The Supreme Court has made clear  
26 that "it is no federal concern . . . whether California's 'some  
27 evidence' rule of judicial review (a procedure beyond what the  
28 Constitution demands) was correctly applied." Id. at 863.

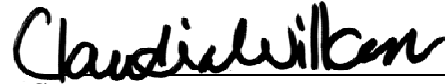
1 For the foregoing reasons, the petition for a writ of habeas  
2 corpus is DENIED. And pursuant to Rule 11 of the Rules Governing  
3 Section 2254 Cases, a certificate of appealability under 28 U.S.C.  
4 § 2253(c) is DENIED because it cannot be said that "reasonable  
5 jurists would find the district court's assessment of the  
6 constitutional claims debatable or wrong." Slack v. McDaniel, 529  
7 U.S. 473, 484 (2000). Petitioner may seek a certificate of  
8 appealability from the Ninth Circuit Court of Appeals.

9 The Clerk of the Court shall enter judgment in favor of  
10 Respondent, terminate as moot all pending motions, including  
11 Respondent's motion to dismiss (docket no. 7), and close the file.

12 This Order terminates Docket no. 7.

13 IT IS SO ORDERED.

14 Dated: 2/16/2011



15 CLAUDIA WILKEN  
16 UNITED STATES DISTRICT JUDGE  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 FREDERICK DAVIDSON,

5 Plaintiff,

6 v.

7 CA BOARD OF PAROLE HEARINGS et al,

8 Defendant.

Case Number: CV09-02756 CW

**CERTIFICATE OF SERVICE**

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

11 That on February 16, 2011, I SERVED a true and correct copy(ies) of the attached, by placing  
12 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
13 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office  
14 delivery receptacle located in the Clerk's office.

15 Frederick Davidson CDC K-40963  
16 Correctional Training Facility Central  
17 Z-Wing 132L  
18 P O Box 689  
19 Soledad, CA 93960-0689

20 Dated: February 16, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk