

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

3 ALVIN MOORE,

No. C 10-05626 SBA (PR)

4 Petitioner,

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

5 v.

6 R. ROUNDS, Warden,

7 Respondent.  
8 \_\_\_\_\_/

9 Petitioner has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 claiming  
10 that his constitutional rights were violated in connection with a decision by the California Board of  
11 Parole Hearings (Board) in 2008 denying him parole.

12 In an Order dated January 14, 2011, the Court dismissed the petition with leave to file an  
13 amended petition which clarified the "nature and exhaustion status of all claims which he seeks to  
14 raise in his federal petition." (Jan. 14, 2011 Order at 2.)

15 On February 11, 2011, Petitioner filed an amended petition, in which he specifically claims  
16 that the Board's 2008 decision to deny him parole does not comport with due process because it is  
17 not supported by "some evidence" demonstrating that he poses a current unreasonable threat to the  
18 public.

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

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

27 For the foregoing reasons, the petition for a writ of habeas corpus is DENIED. Pursuant to  
28 Rule 11 of the Rules Governing Section 2254 Cases, a certificate of appealability under 28 U.S.C.

1 § 2253(c) is DENIED because it cannot be said that "reasonable jurists would find the district court's  
2 assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484  
3 (2000). Petitioner may seek a certificate of appealability from the Ninth Circuit Court of Appeals.

4 The Clerk of the Court shall enter judgment in favor of Respondent, terminate all pending  
5 motions, and close the file.

6 IT IS SO ORDERED.

7 DATED: 2/28/11

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ALVIN MOORE,  
Plaintiff,

Case Number: CV10-05626 SBA

**CERTIFICATE OF SERVICE**

v.

R ROUNDS 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 February 28, 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.

Alvin Moore C-29885  
Correctional Training Facility - Central  
P.O. Box 689  
Soledad, CA 93960

Dated: February 28, 2011

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk