

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

3  
4            NICHOLAS P. ZAMBRANO,

No. C 11-00229 CW (PR)

5                                    Petitioner,

6                                    v.

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

7            RANDY GROUNDS, 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            2009 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            In the context of parole, a prisoner subject to a parole  
18            statute similar to California's receives adequate process when he  
19            is allowed an opportunity to be heard and is provided with a  
20            statement of the reasons why parole was denied. Swarthout v.  
21            Cooke, No. 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). The  
22            attachments to the petition show Petitioner received at least this  
23            amount of process. The Constitution does not require more. Id. at  
24            5.

25            Whether the Board's decision was supported by some evidence of  
26            current dangerousness is irrelevant on a petition for a writ of  
27            habeas corpus in federal court. The Supreme Court has made clear  
28            that "it is no federal concern . . . whether California's 'some

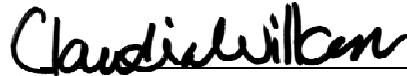
1 evidence' rule of judicial review (a procedure beyond what the  
2 Constitution demands) was correctly applied." Id. at 6.

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

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

13 IT IS SO ORDERED.

14 Dated: 2/15/2011



CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

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

4 NICHOLAS P. ZAMBRANO,

5 Plaintiff,

6 v.

7 RANDY GROUNDS et al,

8 Defendant.

Case Number: CV11-00229 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 15, 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 Nicholas Papia Zambrano D-63149  
16 Correctional Training Facility  
17 P.O. Box 689  
18 East Drom 74L  
19 Soledad, CA 93960-0689

20 Dated: February 15, 2011

21 Richard W. Wieking, Clerk  
22 By: Nikki Riley, Deputy Clerk  
23  
24  
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27  
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